

La Dixme P A R T
D E S ¹⁵⁻¹³
REPORTS

D E
S^r EDW. COKE Chivalier,
Chief Justice Dengleterre,

D E S ¹⁵⁻¹³
Plees destre tenus devant le Roy mesme assignee,
& del Conseil Prive d'Estate :

Des divers Resolutions & Judgments donez sur solempnes
Arguments & avec grand deliberation & conference des tres-reverend
Judges & Sages de la Ley, de Cases en Ley queux ne fueront unques
resolve ou adjudges par devant : Et les Reasons & causes des dits
Resolutions & Judgments.

Publie en la unzieme An de treshaut & tref-illustre J A Q U E S, Roy
Dengleterre, France & Ireland, & de Escosse le 47. le Fountaine de
tout Pietie & Justice, & la vie de la Ley.

Deo duce, *supra*.

Lex tibi quod justum est, Judicis ore, refert.

Jerom. *Justitia non novit Patrem, Matrem, neque Fratrem ; personam
non accipit, sed Deum imitatur.*

Westm. 2. cap. 39. *Ad Officium Justiciariorum spectat, unicuique coram
eis placitanti Justitiam exhibere.*

L O N D O N,

Printed by the Assigns of Rich. and Edw. Atkins Esquires;
for **Daniel Reble** at the *Turks-Head* in *Fleet-street*,
and **John Walthoe**, in *Vine-Court*, *Middle-Temple*, 1697.



Deo, Patriæ, Tibi.

Pfal. 90.
verf. 17.

CUM a publicis meis mi-
nistrationibus quan-
doque vacarem (af-
fisa alacriter In-
dustria; mihi ex more solito
perquam familiari) in Confor-
tem, saluteque mea dulcissi-
ma Patriæ cogitata, in conso-
lationem) precibus hiis etiam at-
que etiam exorsus assidue, Adsit
amoenitas Jehovæ Dei nostri no-
bis, Et opus manuum nostrarum
institute in nobis, ipsum inquam
opus manuum nostrarum insti-
tue, propitio Omnipotentis ductu
& auxilio, decipiam hoc meum
opus, a docto & benevolo Lecto-
re contemplandum, edidi & in
lucem protuli.

Veram pars hæc & fidelem
continet Relationem quorundam
Judiciorum & Sententiarum,
in eminentioribus sue Majesta-
tis Curis Justitiæ administran-
dæ, summa atque matura deli-
beratione latorum, casibus tan-
ti ponderis & momenti, quanti
huius superiorum meorum Com-
mentariorum, quicunque fuerunt.
Laborem hunc ego (mihi sane
difficilem plus satis) suscepi im-
mo & perfeci, ad delineandum
id quod metuendo veritas ipsa
veneranda erubescit, nimirum,
ne illa, a qua habet Justitia
firmamentum, lateret minus cog-
nita: Veritas abscondi erubet-
cit; nihil enim magis metuit

AT my times of Leisure,
after my Public Ser-
vices (cheerfully ta-
king Industry, mine
old Acquaintance, for my Con-
fort, and aiming at the Good of
my dear Country for my com-
fort) and beginning with this
continual and fervent Prayer,
*The glorious Majesty of the Lord
our God be upon us; ob! prosper
thou the Works of our hands up-
on us, ob! prosper thou our han-
dy works;* I have, by the most
gracious direction and assistance
of the Almighty, brought forth
and Published this Tenth Work
to the view of the Learned and
Benevolent Reader.

This part containeth a true and
just Report of certain Judgments
and Resolutions given in his Maje-
sty's principal Courts of Justice,
upon great and mature delibera-
tion, and in Cases of as great
Importance and Consequence as
in any of my former Commenta-
ries, which I have taken upon
me and finished (though it hath
been more than difficult to me)
to avoid that, the which venera-
ble Verity doth blush at for fear,
that is, That she which is the
Foundation of Justice should not
be hidden and unknown; *Veri-
tas abscondi erubescit; nihil enim
magis metuit quam non proferrî
in publicum, vult se in luce col-
locari;*

To the Reader.

locari; & quis illam occultat occultetve, quam omnium oculis expositam esse est æquissimum. Neither is she pleased, when once she is found out and revealed, to be called into argument and question'd again, as if she were not in Verity indeed; and therefore the Rule is, *Eatenus ratiocinandum est donec Veritas inveniat* ubi inventa est Veritas, ibi *figendum Judicium*: nay, sometimes Truth is lost by too much alteration, nimia alteratione veritas amittitur. She takes small delight with varnish of Words or garnish of Flowers; for simplex est sermo, Veritas, *Lucas 8. 15. & Mt. 23. 28.* for her place being between the Heart and the Head doth participate of them both, of the Head for Judgment, and of the Heart for Simplicity. Now whether it be not necessary that the true and just Reasons and Causes of these Judgments and Resolutions, which are not expressed in any Record, for the advancement of Truth and the preventing of Error, in matters of so great Importance and consequence should be plainly and faithfully published to all Posterity, I leave to the Censure of the Learned and Judicious Reader.

LeCase de
Sutton's
Hospital.

I. I have Reported in the first place (though it be not first in time) the Case of the Hospital of King James, founded by Tho. Sutton Esq; for that in mine Opinion it doth merit to have the Precedency for two Causes. 1. For that it was an Exchequer Chamber Case, where, by the Verdict of the Grand Jury of all the Judges of England, it was for the Hospital found *Billa vera*. 2. For that the Foundation

quam non profert in publicum; vult se in luce collocari; & quis illam occultat, occultetve, quam omnium oculis expositam esse est æquissimum. Verum si vel (inventa & peracta iterum reduci in questionem & dubio subesse quasi veritas revera non esset) prorsus indignatur; unde regala est; Eatenus ratiocinandum donec Veritas inveniat ubi inventa est Veritas ibi figendum Judicium; nonnquam enim nimia alteratione veritas amittitur: verborum elegantia florumve fragrantia se vestiri nequaquam curat; Simplex enim est sermo veritas, *Lucas 8. 15. & Mt. 23. 28.* Cuius sedes cum sit inter Cor & Caput, utrunque participat, ex capite nempe Judicium, ex corde Simpliciter. Necesse necne sit (ad veritatem evadendum, errorique rebus tantam viam praeludendam) veras causasque bonum Judiciorum & Sententiarum tum rationes tum causas (que in actis publicis haud exprimuntur) posteritati universa plane fideque divulgari, Lectoris docti & discretioris censura terminandum relinquo.

1. Retuli primum (temporis licet serie non sit primus) casum de Xenodio Regis Jacobi, a Thoma Sutton Armigero fundato merito, quoniam (ut opinor) precedat, duplicem ob causam. 1. Quod in Camera Scaccarii agitabatur, ubi, altissima illa Inquisitione, omnium Angliæ Judicum veredicto, pro Xenodio Billa vera pronuntiabatur. 2. Quod hujus Xenodii fundatio est, opus

To the Reader.

opus sine exemplo. Malorum imitatio exemplum plerumque superat, bonorum vero consecratio, nimis manca, exemplar sapientie non attingit: Hoc vero Charitatis opus, quatenus novit Orbis noster Christianus fundamenta, antecellit omnibus, immo dicam, hujusce instar secularum omnium nusquam vidit oculum.

Annus
valor pos-
sessionum
prius da-
tarum.

Prima enim a Sutton donatio Dominiorum, pradiorum, fundorum & tenementorum in perpetuam sustentationem ejusdem remansurorum 3500 li. annui valoris plus minus attingit, & non ita multos post annos ad annualem summam 5000 li. proveniet. Probatio Charitatis exhibitio operis. Quin & Sutton praeterea relinquit descensurum Aitori (viro plebeio) pradium de Tarbock in Comitatu Lancast. se extendens in prospectum pariter ac antiquam domum, bina vivaria & latifundia proceris undique referta arboribus ad annuum valorem 300 li. & ultra hoc 50 li. redditus annui per annum, una cum rectoria de infra Comitatum eundem, quae valet 100 l. per Annum.

In quos
usus pro-
ventus
statuun-
tur.

Ampli hujus celeberrimi Xenodii proventus in quatuor praecipue usus & proposita instituantur. 1. In dignos illos inuuptos Duces, Praefectos, Militesque sublevandos, qui in bello usque ad necem Reipublicae causa ausi sunt, jamque emeriti in res angustas inciderunt & infirmi sunt. 2. Ad Captivos indigentes redimendos, illos praesertim qui miseri sub servitute Infidelium fidem suam Religio-

of this Hospital is *Opus sine exemplo*. The imitation of things that be evil doth for the most part exceed the Example, but the imitation of good things doth most commonly come far short of the President: But this Work of Charity hath exceeded any Foundation that ever was in the Christian World, nay the Eye of Time it self did never see the like.

For, the first Gift by Sutton of Lordships, Manors, Lands and Tenements to continue for ever for the Maintenance hereof, doth amount to the clear yearly value of three thousand five hundred pound, or near thereabouts, and within these few years will be encreased to about the yearly value of five thousand pounds. Probatio charitatis exhibitio operis. And besides all this, Sutton left to descend to the Plaintiff (a Man of mean quality) the Manor of Tarbock in the County of Lancaster, consisting of a fair ancient House, two Parks and large Demesnes, plentifully stored with Timber, of the yearly value of 300 l. and 50 l. by the year, of Rent of Assise, together with the Rectory of worth 100 l. per Annum within the same County.

The yearly
value of
the posses-
sions first
given.

The large Revenues of this famous Hospital are to be employed principally for four special intents and purposes. 1. For the Relief of such worthy and well esteemed Captains, Commanders and Soldiers, as be unmarried, and have adventured their Lives in the Wars, for the Service of the Realm, and are fallen into poverty and impotency. 2. For redeeming of poor Captives, especially such as are under the miserable Thraldome of Infidels, and constantly keep their Faith and

To what
intents and
purposes the
Revenues
shall be
employed.

To the Reader.

and the profession of true Religion.

3. For the erection of a free School and maintenance of a Learned School-Master and Usher for training up of poor Children in good Literature and vertuous Education, and for avoiding of Idleness, the Mother of all Vice and Wickedness.

4. Within this Hospital there shall be for ever maintained a grave and learned Divine for the Instruction of all within this Hospital, by Preaching of Gods Holy VVord, for the due celebration of Divine Service, and the Holy Sacraments, and Catechising of the Youth in the Principles of true Religion; for the accomplishment and maintenance of which and other godly and charitable Uses, the said Founder hath left also a very great and large Stock of Money to his Executors, *Richard Sutton Esq;* and *John Law Gent.* two faithful, constant, and industrious persons.

This VVork of Piety and Charity is founded in the spacious and specious House called the *Charter-House*, in the Parish of *St. Sepulchre*, in the County of *Middlesex*; having fair Orchards and Gardens, and containing twenty Acres within the precinct thereof, so as a Man may say of it, that it is *tanquam Orbis in Urbe*; a place (as it appeareth by Record and History) ordained of God for Pious and Charitable Uses. For *Sir Walter Manny of Henast* (who was created by King *Ed. 3.* Knight of the Garter, for his Service which with singular commendation he performed in the French VVars) when the Pestilence so reigned in *London*, that the Church-yards were not sufficient to bury the dead Bodies, especially of the Poor, purchased the place where now

nemque orthodoxam constanter professi sunt. 3. *Ad publicum Ludum-literarium constituendum, doctumque Ludimagistrum & Hypodidasculum sustentandos, qui pauperum pueros bonis tum literis tum moribus erudiant, quorum moribus omnium radix evitetur.* 4. *Necessaria hoc Xenodii Theologo gravi & docto suppeditabit, ad residentes singulos infra Xenodium predicato sacro Dei verbo instruendos, & ad sacrosancta Mysteria rite celebranda, tum & juvenes in vera Religionis elementis catechizandos: Qui, & alii, ut perficiantur usus, Fundator insuper ingentes pecuniarum copias in manus Executorum suorum *Richardi Sutton Armigeri, & Johannis Law Generosi*, deposuit.*

Hoc Pietatis & Charitatis opus spatiosis illis & augustis fundatur telis quibus nomen est Le Charterhouse in Parochia Sancti Sepulchri, in Comitatu Middlesex quibus contigue adjacent horti & pomaria amantissima, & infra ejusdem circuitum viginti numerantur jugera, unde dici potest tanquam Orbis in Urbe, locus sane (ut memorandis & historia videre est) operibus Pietatis & Charitatis a Deo destinatus: Nam Dominus Gualterus Manny Hanoniensis (quem cum strenue in Bello Gallico summo omnium applausu se gessisset, Rex Edward. 3. aurea Periculis ordine decorasset) peste jam tum in Londino ita ubique grassante, quod cimiteria ad sepelienda defunctorum cadavera (præcipue inopum) non sufficerent, enim locum in quo celebra
istud

To the Reader.

istud erigitur Xenodion, & in sepulturam inopum Christianorum (qui dum vixerunt Temples fuerunt Spiritus Sancti) dicatur: Audi itaque Monumentum inde publicum, Anno Domini 1349. & Anno Regni Regis Edwardi 3. 23. regnante magna Pestilentia, consecratum fuit hoc Oecumenium, &c. in quo, & infra septa ejusdem sepulta fuerunt mortuorum corpora plus quam quinquaginta millia: Cessante vero, ope divina, Pestilentia, idem Gualterus Many, Anno Domini 1371. & Regis Edwardi 3. Quadragesimo quinto, inibi fundavit Monachos Carthusianos, qui vitio Lingue, Monachi de la Charterhouse vulgo dicti fuerunt: Adeo ut solum hoc, quod olim Gualterus Many cum Eques tum Miles ad inhumandos defunctis inopes amovis, jam datus Thomas Sutton cum Armiger cum Miles ad hospitandis inopes & infirmos vivos constituit & designavit: Meritis igitur huius spectat quod dixit Propheta ille Regalis, Pauperi Deum. Dicis denique, fuit hic casus emulantis multumque jubilantis omnibus qui vel interfuerant vel de iudicio quidquam audierant, & hoc quatuor de causis. 1. Religionis nostrae in honorem, quae tale pietatis & charitatis productis opus, quale tota Respublica Christiana (si primum spectes fundamentum) nusquam produxit. 2. In Regis Majestatis gloriam, cui ex congruo & condigno dedicatur, nomenque ejus habet. 3. In Pietatis simul ac Charitatis incrementum.

this famous Hospital is erected, and caused the same to be consecrated for the burial of poor Christians (which, whiles they lived were the Temples of the Holy Ghost) And the Record telleth you that Anno Domini 1349. & Anno Regni Regis E. 3. 23. Regnante magna Pestilentia consecratum fuit hoc Camitarium, &c. in quo, & infra septa ejusdem sepulta fuerunt mortuorum corpora plusquam quinquaginta millia. But after the Plague by the goodness of the Almighty ceased, the same Sir Walter Many, in the year of our Lord 1371. and in the forty fifth year of the Reign of King Edw. 3. founded the Carthusian Monks there, who by corruption of speech were vulgarly called the Monks of the Charterhouse. So as the Soyl which of ancient Time was given by Sir Walter Many, a Knight and a Soldier, for the Sepulcher of poor Men when they were dead, is now by Thomas Sutton an Esquire, and a Soldier, converted and consecrated to the Sustainance of the Poor and Impotent whiles they live. And therefore a Man may truly apply to this place the saying of the Royal Prophet, Thou Lord of thy goodness hast prepared it for the Poor. And this Case was Adjudged with the great Applause of all that heard it, or of it, and principally for four causes. 1. For the honour of our Religion, that hath produced such a VVork of Piety and Charity, as never was in the Christian VVorld for the first Foundation. 2. For the glory of the Kings Majesty, to whom ex congruo & condigno it is dedicated and beareth his Name. 3. For the increase of Piety and Cha-

To the Reader.

Charity, ne homines deterrentur a piis & bonis operibus: And, Lastly, ut obstruatur os iniqua loquentium. And I dare affirm it, for the honour of our Religion, that more of such good Works of Piety and Charity have been founded within this Realm since the beginning of the Reign of our late Queen Elizabeth of ever blessed Memory, during the glorious Sunshine of the Gospel, than in many Ages before. And it hath been observed, That (by the blessing of Almighty God) this Kingdom of England, for Piety, Profit and Pleasure, viz. 1. For this and such other Works of Piety. 2. For the Crowns Inheritances of Honours, Mannors, Lands, &c. and certainty of yearly Profit. And Lastly, for Forests, Chafes, Parks, and other places of pleasure, hath exceeded the greatest Monarchy in the Christian World.

Mary Portingtons Case.

II. Then have I published in *Mary Portingtons Case*, for the general good both of Prince and Country, the honourable Funeral of fond and new-found Perpetuities, a monstrous Brood, carved out of meer Invention, and never known to the ancient Sages of the Law; I say monstrous, for that the Naturalist saith, *Quod monstra generantur propter corruptionem alienius principii*. And yet I say honourable, for that these Vermin have crept into many honourable Families. At whose solemn Funeral I was present, and accompanied the dead to the Grave of Oblivion, but mourned not, for that the Commonwealth rejoiced, that fettered Freeholds and Inheritances were set at liberty, and many and manifold Inconveniencies to the

tum, ne homines deterrentur a piis & bonis operibus. *Postremum vero*, ut obstruatur os iniqua loquentium. *Hoc denique* (ut Religionis nostra ornamentum) asserere volo, hujusmodi plura pietatis charitatisque facta fuisse opera ab initio regiminis nuper Reginae Elizabethae aeternae pieque memoriae, sub apice Evangelii splendore, quam multis seculis retro lapsis. *Quin &*, hoc regnum Angliae (annuente Divino numine) pietate, proventibus, iucunditate, videlicet, 1. hoc & ejusmodi pietatis operibus. 2. Coronae hereditate, honorum scilicet, praediorum, fundorum, &c. aliorumque annualium proventuum certitudine. 3. Silvium, salubrum, vivarium, aliisque locis amenuis, amplissima totius orbis Christiani Monarchia antecelluisse observatur.

II. In caso deinde Mariae Portington (in universale Principis & Patriae commodum) honorifica divulgavi funera frivolarum istarum novellarumque perpetuitatum partus portento si ex mera inventionis eementi, & Legis olim peritis plane ignoti; portentosum dico, quia ut apud Physiologos est, Monstra generantur propter corruptionem alicujus principii; dico nihilominus honorifica, in quod vermes isti in nobiles quamplurimas familias correpserunt: quibus quidem infesti exequiis, & oblivionis sepulchra mortuae concomitari, plangere autem nequam, ubi tota Respublica libera (ut loquimur) tenementa & hereditates, suis tandem se exolvissis compadibus, & damna Respublica quam

To the Reader.

plurima tum capiti, tum membris singulis evitata fuisse, triumphabat.

III. Sequitur casus de Jennings, qui memorati habet in casu Mariae Portington; & de communis stabilitamento fundendi in hoc regno agit.

IV. Casus de Lampet est proximus, ad Perpetuitates dimissionum pro multis annorum milibus destruendas.

V. Deinde Casus Academiae Oxoniensis (celeberrimi Ecclesiae & Republicae Seimmarii) in Religionis Oribadene propagationem tendit, & quodam modo in meliorem eruditi & religiosi Ministerii ex utraque Academiae Cantabrigiae & Oxoniae sustentationem.

VI. Casus Episcopi Salisburyensis, est contra diminutionem possessionum & annuum reddituum Archiepiscoporum & Episcoporum hujus gentis, & successorum suorum incommoda.

VII. Casus de Whistler diversos continet articulos materiales de expendis Literis Patentibus de hereditate, in rebus plurimis indies emergentibus.

VIII. Custodum seu Gardianorum Ecclesiae Parochialis Sancti Salvatoris Casus Literas Patentes dimissionum optime exponeat, quo securi sine Tenentes Regii de Possessione sua, & consequenter multi alij de Hereditate & Statu suo.

IX. In Curie Marischalke Casu, prima Institutio & Jurisdictio ejusdem Curie manifesta patet: Quamvis enim lex satis nota fuerit, ante hunc casum decretum, ex libris nostris & memorandis temporum omnium successibus; sicuti tamen fluminum cursus, meandros, illapsus

Head, and all the Members of the Commonwealth thereby avoided.

III. Jennings's Case vouched in Mary Portington's Case, and doth concern the common Assurance of the Realm.

IV. And next after cometh Lampet's Case, where Perpetuities of Leases for many thousand years, are by consequence overthrow.

V. The Case of the University of Oxford (a Famous Seminary of the Church and Commonwealth) tendeth to the advancement of Gods true Religion, and in some degree for the better maintenance of a Learned and Religious Ministry, out of both of the Universities of Cambridge and Oxford.

VI. The Bishop of Salisbury's Case against both the diminution of the Possessions and yearly Revenues of the Archbishops and Bishops of the Realm, and the prejudice of their Successors.

VII. Whistler's Case, containing divers material Points for the better construction of Letters Patents of Inheritance in divers Points commonly hapning.

VIII. The Case of the Churchwardens of the Parish of St. Saviours, wherein Letters Patents of Leases are well expounded, for the quieting of the Possession of many of the Kings Farnours, and by consequence of the Inheritance and Estates of many others.

IX. The Case of the Court of the Marshalsea, wherein the Original Institution and Jurisdiction of that Court is clearly manifested. And albeit the Law was well known before in this Case, both by our Book Cases and Records in all succession of Ages: yet as in great Rivers, the courses, windings,

Jennings's Case.

Lampet's Case.

Le Case d'Universite de Oxon.

L'Evesque de Salisburies Case.

Whistler's Case.

Le Case de Churchwardens de St. Saviours.

Le Case del Court de Marshalsea.

To the Reader.

ings, fallings in, and out-lets
are by experience vulgarly known,
whereas the very Fountain and
Head it self lie many times hid-
den and secret, so in this very
Case, the Capacity, Proofs and
Privilege of this Court was of-
ten resolved in our Books and
Years of Terms, and the Juris-
diction commonly known, and
yet the true original Institution
and Fountain it self lay some-
what deep and obscure, until it
was wrought out by Antiquity,
which both so manifested the
true sense of the ancient Acts
of Parliament, and the reason of
our Books concerning the origi-
nal and true Jurisdiction of this
Court, as the very opposites, be-
ing by venerable Antiquity in-
lightened, are by Reason convin-
ced, and by Authority satisfied;
and therefore they are worthy of
reprehension which contain or
neglect the study of Antiquity
(which is ever accompanied with
dignity) as a withered and back-
I R. 3. c. 9. looking curiosity: *multa igno-
rantia quae non latere s. veterum
lectio fuit nobis familiaris*: And
as the *Alumina* spoken of in Law,
giveth light and lustre to the letter,
or figure to the coloured: so An-
tiquity doth give light with great
grace and ornament, both for the
understanding and meaning of the
Letter of ancient Acts of Parlia-
ment, and of our Book Cases and
Authorities in Law. I wish the
like were done for all his Maje-
sties Courts of Justice, a manner
to them that have orderly read
and well observed our Books, and
Authorities of Law, of greater la-
bour than difficulty; and yet would
the Work greatly tend to the Ho-
nour of the Law, and the pre-

*& elapsus aetate edocet experi-
entia vulgaris, dum fons ipse
interim abdita delitescit: ita fons
de Case, experientiam, potissus
& privilegia huiusmodi, Co-
dices antequam amitterent & reme-
diorum superius disputationes habent,
cum & jurisdictionis ipsarum apud
vulgum plene intellecta fuit,
quam interea, vera & origina-
lis institutio, tamquam fons ipse,
latebat admodum remota &
obscura: prorsusque ab anti-
quitate manifestata fuit, quae tam
dilucide geminis priorum a Ro-
mæ consuetudinibus sensum, libe-
rumque posterarum rationem, de
vera huiusmodi jurisdictionis
declaravit: quod & ipse Oppo-
nentes, veneranda illustrati
Antiquitate, & ratione convin-
tur & auctoritate se satisfactos
habent: Culpandi igitur sunt,
qui veterum antiquarum studium
(cunctis semper habens bene-
rem) tamquam aridum & ni-
mis retrospectivam curiositatem,
vel temerum vel saltim negli-
gent: Multa ignorantia quae
non latere, si veterum lectio
fuit nobis familiaris: Sicut mi-
nistus (de quo in Lexi fit mentio)
litterarum vel characterem minian-
dam valde illustrat, sic Anti-
quitas fons cum decore & or-
namenta nos illustrat: ad litterarum
antiquarum statuerum, librorum,
& auctoritatem in Lexi, tam
comprehendendam tum intelligen-
dam. Similiter fieri de omni-
bus ejus Majestatis Curiae Ju-
stitiis mihi in votis est: quod
quidem pluri laboris quam dis-
ficultatis est si quis Codices no-
stros & in Lexi auctoritates or-
dine evoluerit relique intellu-
rit, & praecul dubio magnam af-
ferat Lexi splendorem, quin &
multas*

To the Reader.

multas quaestiones, actiones, minus necessarias expensas, & dilationes anticiparet.

X. *Casus* Leonardi Lovie sibi maxime habet fundamentum Statuta 32 H. 8. cap. 1. & 34 H. 8. cap. 5. de Testamentis, quae sanciri videantur ad extorquenda Jurisprudendum ingenia; adeo multa perplexa & involuta quaestiones ex illa stirpe egeminaverunt: Adjuncto tamen hoc casu superioribus, in explanationem eorum Statutorum, a me relatis (*Casus* nempe de Butler & Baker in tertio meo Commentario f. 27. *Casus* Georgii Curson Equitis, in sexto meo Commentario f. 75. *Casus* Richardi Pexal, in octavo meo Commentario f. 83. *Casus* de Night, ibid. f. 163. & *Casus* Vigili Parker ibid. f. 173. &c.) quo modo mihi persuadeo, si non omnia, tamen majora dubia & scrupuli ex illis enata Statutis, in generalem totius regni pacem dirimantur & amoveantur. Sed hoc non obstant, pari circumspici & considerari (ut spero) dum adhuc integri sumus & sani, Uxoribus, Liberisque prospiciant, & ex optimo Jurisperitorum consilio, res suas superstitibus disponant instrumentis legali, quod, si vellent, ad libitum revocabile esse potest; & negotium hoc usque ad ultimam voluntatem non procrastinabunt, quae plerumque in extremis conditur (& per paucos a mortis praecursoribus pressa memoria est dispositura) modo festinantur & sepius consilio imprudentum, & ita multis subditur controversiis de latentibus Tenuris in Capite aliisque Tenuris per servitium militare (in seculo hoc aquisino) priv-

venting of many Questions, Suits, and unnecessary Charges and Delays.

X. *Leonard Lovie's Case* is principally grounded upon the Statutes of 32 H. 8. cap. 1. and 34 H. 8. cap. 5. of Wills: which Statutes might seem to be made ad extorquenda jurisprudentum ingenia, so many and such intricate and knotty Questions have grown out of those Roots, and yet adding this last Case to the former Cases Reported by me for Exposition of those Statutes, to Butler and Baker, in the third Part of my Reports, fo. 27. Sir George Cursons Case in the sixth Part, fo. 75. Sir Richard Pexals Case in the eighth Part 83. *Might's Case* ibidem 163. *Vigil Parkers* ibidem 173, &c. I am persuaded, that if not all, yet the principal scruples and doubts upon those Statutes, are for the general quiet of the whole Realm cleared and resolved. And yet Men of advised and settled Judgments will in their perfect Health provide for their Wives and Children, and by sound advice of Learned Counsel, settle their Estates by Conveyance in their Life-time, which may, if they will, be revocable at their pleasure, and not to leave it to stand wholly upon their last Will, which many times is made when they lye on their Death-Beds (and few Men pinched with the Messengers of Death, have a disposing Memory) sometimes in haste, and commonly by slender Advice, and is subject to so many Questions upon concealed Tenures in Capite, and other Tenures by Knights Service (in this Eagle-Eyed World) former Conveyances, and other matters of

To the Reader.

fit, as in effect they do for want of due information and instruction, *superare jurisprudentiam artem*. And it is some blemish or touch to a Man well esteem'd for his wisdom and discretion in his Life, to leave a troubled Estate behind him, amongst his Wife, Children or Kindred after his death. A competent Estate to Wife, Children or Kindred in certainty and quiet, is far better than a greater, accompanied with Questions and Troubles. But hereof I have given also a light touch in the end of *Baker and Baker's Case* before mentioned; and therefore having given this admonition, I will here pass over to the next Case.

Dr. Leifeld's Case.

XI. *Doctor Leifeld's Case*, wherein the Reason of Law is opened, wherefore Charters and Deeds pleaded, ought to be shewed forth in Court, and a Caveat given how dangerous it is in Evidence to a Jury to prove Deeds and Writings by Witnesses without shewing form; for by that means Deeds that be seized, inclosed, or otherwise adulterated or otherwise insufficient for want of legal Words, or irrevocable and void against Fermors and Purchasers, have by concealing and proving the effect of them by disposition of unlearned Men, for want of good direction passed for good and authentic: And afterwards the matter coming in question again, and the Court directing upon examination of the Case, that the Deed ought to be shewed, upon sight thereof the insufficiency appeared, and to the Right prevailed: which I have known both in the Court of Common Pleas, amongst others, *Alia 5 Regis Jacobi*, between *Small and Blackledge*, and in the Court of

videtur concessiones, aliisque rebus de facto, ad huiusmodi testamenta (ob consulationes & infraditionis provisiones) superant fore Jurisperitorum artem. Labor est non incommoda est & infamia viti, totius sua viti curiendo, de prudentia & discretione, bene existimato, res suas difficultatis plenam Usuri, Liberi, seu cognatis post obitum suum relinquere. Res mediocres curantur soluta Usuri, Liberi vel cognatis longe sunt digniores, quam magis ample considerationibus & moleculis involuta. Sed de hoc in conclusione Casus de Baker & Baker pauca attenta, monitione iurisco hoc subnexa, ad proximum Casum properamus.

XI. *Casu Doctoris Leyfield, sententia Ligei rectoris, de allegatis Chartis & Synographis, in Curia memorandis, circa causam ejus de periculo probandi per testes etiam duracionem scripta Synographa & Scripta, nulla illorum habita consideratione, et cum sit in praesentia causa, ostensa aliquid adulterata, vel causum corrumptum legitime in Ligei proposita, invalida, vel revocabiles, & quod tenentes & emptores terrarum (ubi supradictarum, & coram rectoris literarum testimonio confirmata, nulla adducta hac in re directione) admissa fuisse ut authentica; postea vero in veram agitata casusque melius inspecto, cum Curia demonstrari oportuisse scripta direxerit, totam invaliditatem comprobavit, restituitque valuit: quod in Curia de Banco, Mich. 5 Regis Jacobi inter Small & Blackledge, in Curia*

ris

To the Reader.

ria Camera Stellet a inter Green & Eyer, &c. ex quo Judex fui, in Circuitu meo am-
tavi.

XII. Edwardi Regis Casus, agit de Warrantis, subtili sane doctrina genere. & emptori im-
primis necessario: Cingit enim non solum casu Vocatus, ad Victorem compensandum, recu-
peratione scilicet ad valorem reportandum, sed sententiam, ad liberum Tenementum & Heredi-
tatem propugnando per formulam propellendi (apud nos, per voy de Rebutter) qui Legis Titulus (ni
ne fallat) egregio curiosis & cu-
riose agrogus. Lata tamen hic
casu, plus in se habere momenti
quam difficultatis, mosum con-
senties.

Psal. 109.
verf. 10.

XIII. Proxima accedit Casus
de Beaufage, tam ut indemnes
sint Vicarii & Curiales mini-
stri, quam ad extortorem ex-
dicandum (cuius explicationis,
quod in sacris Scripturis in im-
precatione illa in indigne Dei
malum illiquam interpretatur,
Illiquat Expilator quicquid est
illius, & disipiant extortori laborem
illius.) ubi citam Statutum de
23 H. 6. c. 10. in Extortorem,
Perjurium & Oppressionem, edi-
tum, (qua plerumque inter se con-
catenatur) optime explicatum
habet.

XIV. Deinde sequitur Casus
Denbawd, de concedendo Ta-
les de Circumstantibus ad Af-
fides, ut melius expediantur
explorationes, quo tam Vicari-
miles & Ministri sui, quam
partes, Attornati & Solicitato-
res sui movendi sunt, ne Ma-
chinatione seu Confederatione a-
liqua, directo vel indirecte, li-
beros tenentes iniquos & nimis

Starr-Chamber in the Case between
Green and Eyer, and sometime in
my Circuit since I was called to be
a Judge.

XII. Edward's Case, ^{Seymour's} concerning Warranties, a cunning
kind of Learning (I assure you)
and very necessary for the Par-
ty-chase: For it armeth him not
only with a Sword by Voucher
to get the Victory of Recomp-
pence by Recovery in Value, but
with a Shield to defend a Man's
Freehold and Inheritance by way
of Rebutter; which Title of the
Law is in mine Opinion excellently
curious, and curiously excellent.
And yet when you have read this
Case, you will concur with me,
that it was more weighty than dis-
ficult.

XIII. Then cometh in Beaufage's ^{Beaufage's}
Case, as well for the Safety of
Sheriffs and their Officers and
Ministers, as for avoiding of Ex-
tortion Crimes Expilations) which
is Holy Writ; in that Imprec-
tion against Gods Enemies, is
called a cursing Sin: ^{Psal. 109.} Let the Ex-
^{verf. 10.} tortioner consume that he hath; and
let the Stranger spoil his Labour.)
Wherein you shall find the Statute
of 23 H. 6. c. 10. made for avoid-
ing of Extortion, Perjury and Op-
pression, which are for the most
part linked together, very well and
justly enfolded.

XIV. Next followeth Denbawd's ^{Denbawd's}
Case, for the just and due granting
of Tales de Circumstantibus at the
Assises for the better expedition of
Trials; wherein as well the Sheriffs
and their Ministers, as the Parties,
their Attornies and followers are to
be warned, that by no Practise or
Confederacy, directly or indirectly,
they procure nor partial and affected
Freeholders to stand in View, or by
any

To the Reader.

any shift to be packed on the *Tales*, whereby Truth and Justice may be subverted, and the necessary Act of 35 H. 8. c. 6. finitely abused, for that is an high Offence, and to be punished by a grievous Fine, Imprisonment and other Exemplary Punishment.

*Lofeld ver-
sus Clm.* XV, XX. *Lofeld* and *Clm's* Case, touching Reservation of Rents upon Leases for years, &c. and how the same shall be construed, necessary to be known of all Men, because in effect it concerneth all.

*Legat's
Case.* XVI. Then followeth *Archer Legat's* Case, against the robbing of Church and Common Wealth, of the Crown and of the Country, by colour of pestilient Patents of their vile Concealments.

*Pitfold
versus
Cheyne.* XVII, XVIII. After that *Pitfold* and *Cheyne's* Case, concerning the true and legal manner of the assessing and enquiring of damages, &c. a necessary kind of Learning, for that many Errors, the Causes of Expence and Delay, have been therein often committed.

*Mayor de
Linn's
Case.* XIX. Next cometh the Case of the Mayor and Burgesses of *King's Lynn* in the County of *Norfolk*, wherein is well discussed what shall be deemed in Law the true name of the Corporation in substance, to the end that Bonds, Covenants, Leases, Grants or Conveyances be not in respect of too much Niceness and Curiosity therein against all Honesty and just Dealing, impeached and overthrown. And to say the truth, I find not in any of our Books from the beginning of the Reign of *Edw. 3.* until the Reign of *Edw. 6.* that any Bond, Lease, Grant or Conveyance have been overthrown by Judgment, in re-

anicos circumfusa, vel dola in-
la Tales aseribi faciant, in sub-
versionem Veritatis & Justitie,
& alium peritile de 35 H. 8.
c. 6. Illustrandum: ingens signi-
ficum hoc est crimen, & gravi
multa, carceris, alioque pena re-
emplari placendum.

XV, XX. *Casus de Lofeld &
de Clm.* Reservationes reddituum
super dissensionibus ad terminum
annorum, &c. tractat, & quomodo
expungantur, &c. hoc est vultum om-
nis necessitatis, quia omnibus fere
interest.

XVI. Prosequitur est *Casus Ar-
thur Legat*, contra depopulan-
dam Ecclesiam & Republicam,
Curiam totius, hanc Natio-
nem, pretorum Literarum Paten-
tium pessiferarum & pradam
darium de terris consilium.

XVII, XVIII. *Casus de Pit-
fold & de Cheyne de rebus le-
galibus modo damnatis* recen-
dum & inquirendum, neces-
sario admodum genere Eruditionis,
in quod errores (dispendii &
dilationis causa) in illa frequen-
ter fuerunt.

XIX. Next cometh the Case of
the Mayor & Burgesses of *King's
Lynn* in the County of *Norfolk*,
ubi bene discipulatur quid in lege
dicatur verum Corporacionis no-
men, in Obligationibus, Pactis, Di-
missionibus, Concessionibus & Instru-
mentis, cura minus detrica & cu-
riositate, contra sui omne & fi-
dem, impediuntur & enervantur.
Et, ut verum profitear, in nulla
Codicum nostrorum inventio, ab
initio Regni *Edw. 3.* usque Reg-
nam *Edw. 6.* Obligationum, Di-
missionum, Concessionum seu In-
strumentorum vel unum, nisi
nominata Corporacionis causa ir-
ritum judicari: Beneficentia vero
semel

To the Reader.

semel aperta, qualis corrupta fuerunt lumina a Corporationibus tam Spiritualibus quam Temporalibus, per questiones & in lege actiones, ad annullanda sui ipsorum Dimissiones, Concessiones & Instrumenta, in numerum quamplurimum & ruinam multorum, male nominatione prestatu, mirum est cogitare, istum bonis moribus dolet memorare. Sed motus prestat componere fluctus. Tum & ut referatur hic Casus, in causa fuerunt pax & quies tam occupationum & aliorum qui sub Corporationibus aliquid sibi vendicant, quam & illorum, de pactis aliisque rebus in habitis, ut res magis valeat quam pereat.

XXI. Habes item Casus de Osborn, ubi copiose decernitur, quando verba male & incongrua Latina, &c. destruit, vitiat, vel adhibet Brevia, Instrumenta, Chartas, Scripta, vel Recorda, & quando non.

XXII. Casus de Read & Redman, agit de Summonsibus & Separatione, quo invenies ubi mors partis separate destruit Breve, & ubi non, & ubi nunquam mors unius Quarentium, licet non separatur, non destruit Breve originale, &c.

XXIII. Richardi Smith Casus, est de Quare Impedit de medietate, &c. Ecclesiarum.

XXIV, XXV, XXVI. Evolve deinde quadam Justicia in Statuta & Commissionibus de Seweris, genus Doctrina nota perutile, executioni vero debita ut demandaretur multo magis necesse, nec pretestu inde privatum sit occulte designatum, dum publicum aperte pretenditur. Hinc

spect of the misnaming of the Corporation, but after a Window was once opened, it is a wonder to consider what light hath been taken by Corporations both Spiritual and Temporal, by Questions and Suits in Law; to avoid their own Leases, Grants and Conveyances, to the hindrance of Multitudes, and undoing of many, under colour of misnaming themselves, it grieveth good Men to remember: Sed motus prestat componere fluctus. And this Case is reported for the surety and quiet as well of their Fermoys and others claiming from them, as of themselves; for Estates, Covenants and other things made unto them, ut res magis valeat quam pereat.

XXI. Then have you Osborn's Case, wherein is at large resolved where false or incongruous Latin, &c. shall abate, vitiate or make void Writs, Specialties, Charters, Deeds or Records, and where not.

XXII. Read and Redman's Case; Read ver- concerning Summons and Severance, sus Rea- wherein you shall find, when the man. death of the Party severed shall abate the Writ, and when not; and in some Cases where the death of one of the Plaintiffs, though he be not severed, shall not abate the Original Writ, &c.

XXIII. Richard Smith's Case, in R. Smith's what case a Quare Impedit lyeth Case. de medietate, &c. Ecclesiarum.

XXIV, XXV, XXVI. Then shall 3 Cases for you read certain Resolutions upon Stat. de the Statutes and Commission of Sewers. Sewers. of Sewers, a necessary kind of Learning to be known, but more necessary (I assure you) to be put in due Execution; and that by colour thereof a private be not privily intended, when the publique is openly pretended.

And

To the Reader.

And in those Cases is well discussed what the Commissioners of Sewers may justly and safely do by their Willsoms and Discretions.

*Serrop's
Case.*

XXVII. And lastly Serrop's Case, touching a Point of Revocations, very necessary to be known, for that Revocations are grown so frequent, and the Resolution of this one Point may prevent many Controversies, that might have grown out of them, and that most commonly between Brethren and others near of Blood and Alliance.

If any do marvail, that seeing the Matter of every particular Case doth tell in a narrow room, and that my manner of Reporting is summary, relating the effect of all that was said of the one side by it self, and so likewise of the other, beginning ever with the Objections, and concluding with the Resolution and Judgment of the Court, (which I hold to be the best order of Relation) wherefore divers of these Reports are drawn into so great a length; the Cause is apparent, though I allow not of it, that the Questions or Objections moved at the Bar, and the Arguments drawn from Books, Cases and other Authorities in Law be so many, and to say the truth, many Questions are raised rather out of the weight of the Matter, than the difficulty of the Case: For I never saw any Case of great Value proceed quietly without many Exceptions in Arrest of Judgment. The antient order of Arguments by our Serjeants and Apprentices of Law at the Barr is altogether altered. 1. They never cited any Book Case or Authority in particular as is holden in 40 Edw. 3. &c. But est tenuis

Nul livres cite devant ou apres un nostre livres, ou est tenuis en adjudge in termes, or

etiam Casibus bene differitur, quid Commissionarii de Seweris fide & indemniter ex eorum prudentia & arbitrio agant.

XXVII. Casus denique de Serrop, Articulum de Revocationibus tractat, et magis nota dignum quod Revocationes adeo nunc sunt frequentes: Et hujus solius Articuli decisio multis libris abunde utitur, plerumque inter fratres & alios sanguine & affinitate proximios, obviare solet.

Si mirum cupiam videatur (cum Casus cujusque particularis materiam anguste circumferant meta, & Relatio mea pro more adeo compendiosa sit, summam referens utriusque ex una parte factam, & sic vicissim ex altera, initium semper sumens ab objectionibus, & in Judicio & Sententia Curie finem faciens (que mihi videtur optima Relationis methodus) qua de causa Casuum modo edictorum nonnulli ita profuse se extendunt: In promptu Causa est (a me tamen non approbata) nimirum, propter quod Quæstiones vel Objectiones pro Tribunali mea, pariter ac Argumenta & Codicibus sumpta, aliaque in lege autoritates abundant. Et, vero variis dicam, plures Quæstiones ex rei pondere quam difficultate Casus enascuntur: nunquam enim novi magni momenti casum paucè agi, plurimò non adhibita exceptionibus in retardationem Judicii. Antiquus ille argumentandi mos ad septem Curia per Servientes ad Legem & Jurisconsultos quos Apprentices vocamus persus immutatur: 1. Ii tunc unquam librum vel auctoritatem nominatim produxerunt, ut videre est

To the Reader.

in 40 E. 3. &c. sed Est tenus, &c. vel simile, qui modus in questionibus arguendis (quos vocamus Moots le barre) in Interiori Templo huc usque retinetur. 2. Eo tempore annotatio fuit generalis, vera autem semper in particulari; hodie, e contra, annotatio est particularis, multoties veto abs re in generali. 3. Tunc rarissime prolatis fuerunt casus si non apte & ad rem (& hii in arcem questionis invadunt) nunc vero in prolixo admodum argumentis de farragine autoritatum compositis, multa male opposita necesse est, quia semper argumentationem vel infirmam vel inficiunt. Huic facillime remedium apponeretur, si res (quæ agrum minus latum occupat) prius nota fuerat, & deinde unusquisque causam pro Tribunali tractaturus, vel congrua vel succincta eloqueretur.

Quoniam vero, mihi in votis est semperque fuit, tum Jurisconsultis tum partibus satisfacere, & quomobrem Jurisconsultos singulos, qui causam discutiendam disputaverunt, sedulo attendere & interesse oportet, diebus Argumentationum Judicum, diu ante publice statuis & præfixis) hac de causa (cum mei ipsius sit labor & res non sine fructu suo) Casus majoris momenti fusius retuli, summam totius vel objecti vel discussi complectens: Metallicus tamen haud dubio expertus esse potest, qui venas facundiores invenit & sectatur, quamquam minores & infacundiores ignorat, circa has enim fortasse materiam superabit opus. Hoc tantum a Jurisperitis universis cavendum adjiciam (cum, ut germanus Legis sensus apprehendatur, dis-

such like, which Order yet remains in Moots at the Bar in the Inner Temple to this day. 2. Then was the Citing general, but always true in the particular; and now the Citing is particular, and the Matter many times mistaken in general. 3. In those days few Cases in Law were cited but very pithy and pertinent to the purpose, and those ever pincht most, and now in so long Arguments with such a Farrago of Authorities, it cannot be but there is much refuse, which ever doth weaken or lessen the weight of the Argument. This were easily holpen, if the Matter (which ever lieth in a narrow roomth) were first discerned, and then that every one that argueth at the Bar would either speak to the purpose, or else be short.

But seeing my desire is, and ever hath been, that the Counsel learned, and consequently the Parties might receive satisfaction, for which cause all the Counsel that have argued in the Case to be adjudged, ought to give diligent attendance and attention on those days when the Judges do argue, which are ever publickly long before appointed, and prefixed on certain days. I have for that purpose (the pains being mine own, and the Matter not without some fruit) in the Cases of greatest consequence made the larger Report, comprehending the effect of all that was objected and resolved; and yet he may be a good Miner that findeth and followeth the main Veins, though he discovereth not the small and unvaluable Fillets, for there peradventure materiam superabit opus. This only I will add as a Caveat to all the Professors of the Law, that seeing their Arguments should

To the Reader.

should tend for the finding out of the true Judgment of Law, for the better execution of Justice, that therein they commit not manifest Injustice: for I am of Opinion that he that writeth or misapplieth any Text, Book or Authority of the Law against his proper and genuine Sense, yea though it be to confirm a Truth, doth against distributive Justice, which is to give to every one his own. And let not those that heare the Arguments themselves uttered *viva voce*, with the Countenance and Gesture of living Men in the seat of Justice in open Court, fear that when they shall read them privately in a dead Letter, it will want much of the former grace: For though I confess that *habes nescis quare moriens viva vox*, yet when they shall read the effect of all that was spoken at large at several times by several persons, at the Bench and at the Bar by either part, of many and diverse Matters collected and united together and reduced *ad aliam*, concerning every particular point it will ease them of much labour, and endow much to the setting of their Judgment, and that, if I be not deceived, not without a Students delight.

And for that I am intended to shew as well the times when the *Regist.*, the *Mirror of Justice*, *Glanvil*, *Briton*, *Fleta*, the *Tales or Nova Narraciones*, *Old Notes Breviales*, *Littleton* and other Books of the Law now extant were published, and where the Authors themselves appear not in those Books, who were the Authors of the same, as also the Antiquity of *Sajones* at Law: For their satisfaction they shall understand, that first the *Regist.*, which containeth the Original

operationes sue continentur, in meliorem Justicie administrationem) ne faciam quod sit *plene Injustitia*: *Ubi enim sentio, qui textum, codicem, seu in Legi auctoritatem a proprio suo ac genuino intellectu sive torquet sive invertit, vel ad veritatem aliquam confirmandam, peccare in Justitiam distributivam, cujus est Summa cuique tribuere.* Hii denique (qui ipsa argumenta viva voce simul ac vultu gestibus vivorum, in Justitia sede palamque in foro, pronuntiata audierunt) nequaquam erubescunt, illo suo *spoliari dactore, cum, mortuo charactere, privatis lectis fuerint.* Licet enim, Habeat nescio quam energiam viva vox, summum totius omnium, utrinque a viris diversis variisque vicibus de tribunali & pro tribunali fufius diffusum, cum periculis, summum dico verum multarum jam in se diffusum, recollectarum, unarum, & ad idem redactarum, de articulis quolibet particulari, facili perculat in fili sui erit *subere manus, magis forma*; & in his (nisi fallor) studioforum erit *delectatio non modica.*

Quippe quoniam nos velle narrare, tam tempora editionum *Registri*, *Speculi Justiciariorum*, *Glanvilli*, *Fleta*, *Novarum Narrationum*, *Littletoni*, aliorumque de *Legis* librorum modo extantium, quippe considerant hoc quorum auctores in libro ipso non extant, quoniam antiquitatem *Servitionum ad Legem* summi regitorem uti ut habent que quiescent, Sciant imprimis *Registrum* referre *seu Brevia originalia Jura* municipalia comprehendens, librum de *Legis* esse *verisimilissimum*; *Causa enim*

To the Reader.

enim e codice & archivis de Anno 26 E. 3. lib. Ass. pl. 24. evincit manifeste, *Brevia Originalia Assise* ut & alia *Brevia Originalia* in usu fuisse ultra omnem hominum memoriam, (hoc est, quorum institutio, vel recordatione vel lectione, vel sermone ostendi non potest) multo ante devictam hanc Religionem: quæ quidem hic solummodo percurro, eo quod eadem in proæmio tertii mei *Commentarii* copiose magis adnotavi, & quoad possum iterationem minus gratam evitare conor. Quin & liber iste nominatur *Registrum Cancellariæ in statuto West. 2. c. 24. quia Cancellaria est tanquam officina Justitiæ, unde Brevia originalia universa emanant. Cujus de Authore, vel potius de Autoritate, audi Bractonum Lib. 5. Tract. de exceptionibus c. 17. f. 413. Breve quidem, cum sit formatum ad similitudinem Regule Juris, quia breviter & paucis verbis intentionem proferentis exponit & explanat, sicut regula Juris rem quæ est breviter enarrat, &c. Sunt quædam formata sub certis casibus de cursu & de Communi Concilio totius Regni concessa & approbata, quæ quidem nullatenus mutari poterint absque consensu & voluntate eorum. Hinc igitur hinc auctoritatibus connexus, concludere licet hunc esse librum tum antiquitatis tum auctoritatis maximæ: Virtute autem aliorum comitalium, sæculis subsequentibus, varia alia *Brevia originalia* in casibus recentioribus emergentia (ut in eo liquet) annexi sateor. Et de his antiquis *Brevibus* dicam (quod docet Th. Smith Eques Auratus de v. quinetiam Eliz. nuper Regina ab Epistolis) Secretarius*

Writs of the Common Law, is the ancientest Book of the Law; for the Book-Cafe and Record of 26 Edw. 3. lib. Ass. pl. 24. proveth directly, that Original Writs of Assise and other Original Writs had been time out of mind of Man (that is, the beginning whereof cannot be known either by Remembrance, Reading or Record) long before the Conquest, whereof I give here but a light touch, for that I have cited the same more at large in the Preface to the 3d Part of my *Commentaries*; and I avoid as much as I can, unpleasing Iterations: And this Book is called *Registrum Cancellariæ* in the Statute of *Westm. 2. cap. 24.* because that the Chancery is tanquam officina *Justitiæ*, all Original Writs issuing out of that Court: Now for the Authority thereof, *Bracton, lib. 5. Tract. de Exceptionibus, cap. 17. fol. 413.* saith thus, *Breve quidem cum sit formatum ad similitudinem regule Juris, quia breviter & paucis verbis intentionem proferentis exponit & explanat, sicut regula Juris rem quæ est, breviter enarrat, &c. Sunt quædam formata sub certis casibus de cursu & de Communi Concilio totius Regni concessa & approbata, quæ quidem nullatenus mutari poterint absque consensu & voluntate eorum.* Now joyning both these Authorities together a Man may safely conclude, that this Book is most ancient and of greatest Authority. I confess, that by force of Acts of Parliament in succeeding Ages, divers other Writs original in Cases newly happening are (as appeareth in the same) added thereunto. And of these ancient Writs, I will say (as Sir Th. Smith a Secretary of State said)

To the Reader.

said) that all the Secretaries in Christendom may learn of them to express much Matter in few and significant Words.

For the *Mirror of Justices*, *Speculum Justiciar*, the most of it was written long before the Conquest, as by the same appeareth, and yet many things added thereunto by *Horn* a learned and discreet Man (as it is supposed) in the Reign of *Edw. 1.*

Concerning *Glanvill*, he wrote in the Reign of *H. 2.* as appeareth by this Book; and what he was it appeareth in my Preface to my Eighth Book, a History in my Opinion worthy the reading. And about the same time was the Treatise called the *Old Tenures* made.

Bracton, as elsewhere I have noted, wrote about the end of the Reign of *H. 3.*

Briton composed a learned Work and published the same in 5 *Ed. 1.* as appeareth in 35 *H. 6.* by the Commandment of *Ed. 1.* (our *Justinian*) the Tenor whereof runneth in the Kings Name, as if it had been written by him, answerable to *Justiniani Institutes*, which *Justinian* assumeth to himself, although it were composed by others. This *John Briton* was Bishop of *Hereford*, and of great and profound Judgment in the Common Laws, an excellent Ornament to his Profession; and a Safety and a Solace to himself, *Vide Stamford Prærog. R. 6. & 21.*

Fleta is a Work well written by some learned Lawyer, who being committed to the Prison of the *Fleet*, had leisure to compile it there, and therefore stiled his Book by the name of the *Fleet*, *Fleta*, and concealed his own Name, as in the Preface to his Work appeareth. The

Christiani orbis universos, rerum congeriem paucis & significativis verbis exprimere, ex illis posse discere.

Speculum Justiciariorum quod attinet, maxima ex parte literis consignatum fuit, Gentie hac nondum subacta, ut ex illo perspicuum est: Ceterum (ut ferunt) multa adjecta fuerunt per Horne virum eruditum satis & prudentem sub Regno Ed. 1.

Glanvill scripsit regnante H. 2. ut in libro suo constat: qualem se gessit, Prefatio in octavum meum librum (Historiam continens mea sententia, Lecta dignam) plane edocet. Et circa id tempus, Codicillus de Veteribus Tenuris editus fuit.

Bractonus (ut alibi notavi) circa H. 3. Regni finem commentatus est.

Britonus opus eruditum composuit, idemque anno 5 Ed. 1. promulgavit, per mandatum Regis Ed. 1. (Justiniani nostri) prout in 35 H. 6. apparet; Cujus tenor se habet sub nomine Regis, tanquam ab illo confectus, pro more Justiniani Institutionum, quas sibi arrogat Justinianus, ab aliis licet fracta fuerint. Ipse Johannes Britonus fuit Episcopus Herefordensis, summa & recondita in Lege communi scientia, ornamento professioni sue singulari, & sibi securitate, & solatio optimo. Vide Stamford. Prærog. Regis 6. & 21.

Fleta, opus pereruditum aliquem Jurisconsultum quam optime composuit, cui in carcerem, qui Fleet dicitur, ablegatus, scribendi otium fuit plus satis, ideoque librum suum secundum Fletæ denominationem, Fletam appellavit, & nomen suum suppressit, ut in operis

To the Reader.

operis sui proemio constat. *Author itaque ejusdem incognitus est; quem tamen sub E. 2. & E. 3. vixisse liber ejus dilucide ostendit. Vid. lib. 1. cap. 20. §. Qui ceperunt, lib. 2. cap. 66. §. Item quod nullus. De tempore autem in quo primum editum fuit (quia nonnulla postea accesserunt) dubitatur: Ceterum in hoc perscrutando, Librum istum a carcere Fleta, Fletam vero ab amniculo præterlabente sic appellato, nomen sortitum fuisse reperio.*

Codex qui inscribitur Novæ Narrationes in 39 H. 6. 30. per doctum Priſot & socios suos de Banco Jusficiarios sub nomine Narrationum, memoratus & approbatus, juxta initium Regni Regis E. 3. in lucem prodit. Tum & non multo post Vetus Natura Brevium, Rege eodem gubernante; nam f. 100. b. statutum de 5 E. 3. c. 12. novum statutum nuncupatur; exinde tamen multa illi annexa sunt. De libro hoc Anthony Fitzherbert Eques, in Proemio ad tractatū suum de Natura Brevium, dicit, Et auxy pur cel intent & purpose, fuit compose, per un sage & discret home, un liure appel Natura Brevium.

Liber Fortescue de Laudibus Legum Angliæ, sub Rege H. 6. confectus fuit, multa lætū imprimis digna in se habens: idem etiam pro titulo & jure Regis H. 6. supremi sui Domini ad sceptrum Angliæ tenenda librum conscripsit, quem postea ex veritatis conscientia retractavit; quorum uterque apud me sunt: & in hoc laudem singularem meruisse videtur, quod illorum pars nulla fuit qui suos amassent errores, sed inventa semel veritate, facile succubuit.

Author thereof is unknown, but it appeareth in his Book that he lived in the Reigns of King Ed. 2. and Ed. 3. *Vide lib. 1. cap. 20. §. Qui ceperunt, lib. 2. cap. 66. §. Item quod nullus.* But of the certain time when it was first published (for peradventure it had Additions afterwards) there is some Question made: But in seeking after this, I find that this Book took the Name of the Prison of the Fleet, and that the Fleet took the Name of the River running by it called the Fleet.

The Book entituled *Novæ Narrationes*, vouched and allowed in 39 H. 6. 30. by learned Priſot and his Companions, Justices of the Court of Common Pleas, by the Name of the *Tales*, was published about the beginning of the Reign of King Ed. 3. And *Old Natura Brevium* afterwards in the Reign of the same King, for f. 100. b. the Statute of 5 E. 3. c. 12. is called *le novel statute*: but since, Additions have been made thereunto. Of this Book Sir *Anthony Fitzherbert* in his Proem to his *Natura Brevium* saith as followeth, *Et auxy pur cel intent & purpose, fuit compose per un sage & discret home un liure appel Natura Brevium.*

Fortescue de laudibus legum Angliæ; this Book was written in the Reign of King H. 6. in commendation of the Laws of England, containing withal much excellent Matter worthy the reading. He wrote also a Book in defence of the Title of King H. 6. his Sovereign Lord and Master, to the Crown of England; but after out of Truth and Conscience retracted the same, both which I have; wherein he deserved singular commendation, in that he was not amongst the number of those who amassent Errors, but yielded

To the Reader.

yielded to Truth when he found it. This Sir *John Fortescue* was Lord Chief Justice of England, and afterwards Lord Chancellor of England, and his Posterity remain in great and good account to this day.

Statthorn's Abridgment, first published in the Reign of King H. 6. by *Statthorn* a learned Lawyer of that time: And the *Abridgment of the Book of the Assizes*, published also about the same time, but the Author thereof is unknown.

Littleton's Tenures, a Book of sound and exquisite Learning, comprehending much of the Marrow of the Common Law, written and published by *Thomas Littleton* a grave and learned Judge of the Court of Common Pleas, sometimes of the Inner Temple, wherein he had great furtherance by Sir *John Prisot* Lord Chief Justice of the Court of Common Pleas, a famous and expert Lawyer, and other the Sages of the Law who flourished in those days. Of this Book *Hotoman* a Civilian and Canonist in his Commentary *de verbis feudaliibus*, *verbo feudum*, giveth his Censure, with what Charity or Discretion, judge learned Reader: *Stephanus Pasaverinus* excellenti vir ingenio, &c. *Libellum mihi Anglicanum*, *Littletonum* dedit, quo feudorum Anglicanorum jura exponuntur, ita incondite, absurde & inconcinne scriptum, ut facile apparet verum esse quod *Polidorus Virgilius* in *Anglicana Historia* scribit, *stultitiam* in eo libro cum malitia & calumniandi studio certare. Of *Hotoman* and his Author I may justly say, and will say no more, volentes esse legis doctores, non intelligentes nequa qua loquuntur, neque de quibus affirmant,

Isse Johannes Fortescue fuit Eques & Principalis Angliæ Justitiarius, & postmodum Dominus Cancellarius Angliæ constitutus fuit; & in hodiernum usque diem magni est ejus posteritas.

Statthorn's Compendium, a *Statthorn* Jurisconsultissimo, regnante H. 6. primo editum fuit: Et *Libri Assisarum*, *Epitome* juxta id tempus etiam in lucem prodit, *Autbor* vero ejusdem ignotus est.

Littleton's Tenure, *recondita* quidem & exquisita *literaturæ* Liber, *Legis communis* quasi *medullas* ipsas complectens, a *Thoma Littleton*, viro gravissimo pariter ac in *Lege* peritissimo, *Judice* *Placitorum communium*, quondam e *Societate* *Interioris Templi*, *compositæ* fuerunt & promulgatæ; cui adjumento non parum fuit *Dominus Johannes Prisot* *Curie* ejusdem *Justitiarius* principalis, vir *Jurisconsultissimus*, alique *Legis* sagacissimi ea tempestate *florentes*. De hoc Libro *Hotomanus*, *Juris Civilis & Canonici* peritus, *Commentario* suo de *verbis feudaliibus*, *verbo feudum*, censuram facit, sed qua *charitate* vel *prudencia*, *eruditus* *Lector* sit *Judez*, *Stephanus Pasaverinus* excellenti vir ingenio, &c. *libellum mihi Anglicanum*, *Littletonum* dedit, quo feudorum Anglicanorum jura exponuntur, ita incondite, absurde & inconcinne scriptum, ut facile apparet verum esse quod *Polidorus Virgilius* in *Anglicana Historia* scribit, *stultitiam* in eo libro cum malitia & calumniandi studio certare. De *Hotomano* & *Autbore* suo merito dicam hoc, & non amplius dicam, *Volentes* esse legis *Doctores*, non intelligentes neque

To the Reader.

neque quæ loquuntur, neque de quibus affirmant: *missos igitur faciamus in numerum illorum qui vituperant quæ ignorant.* Scelus siquidem & periculum manifestum est, *Juris Civiles peritos vel Canonistas (satis notum loquor & justis de causis) aut de jure municipali Angliæ, quod non proficiuntur, scripsisse, aut in ignotis dicere calumniam.* Certo certius ridiculum, & audax nimis in me foret, si (quoniam partem ego parvulam *Juris Civilis & Canonici, auxilio nonnulla parvuli & adjumento addidit, & volui*) de illis vel in illa statim scribere aggraderer. *Illorum autem paginae, adeo manifestis repletæ sunt erroribus, ut novorum istorum machinatorum ex charitate misereamur, & illorum libellos (dato responso) consilio rejiciamus.* At si libri nostri de *Legibus* quasi enigmatici & obscuri illis videantur sapientes illud *Legibus nostris* haud vitio vertunt quin immo inscitia scilicet istorum qui superficiem solum *Legum* vix dum perstrinxerunt, ideoque sensum earum reconditum intelligere nesciunt. Sed in illos calumniam non amant; misere nos hominum, & discretiores esse velint opto, professionem enim illorum in honore habeo. *Littleton's Tenures* quod attinet, hoc affirmo & contra refragantes quoscunque ratum faciam, opus esse sui generis adeo absolute perfectionis adeoque ab erroribus liberum, atque aliquod aliud mihi notum. humanam tractant traditionem. Et hujusce viri, *Legum* peritissimi, posteritas (cui magno fuit illo ornamento) ad hunc usque diem vigescit: quem vir, professionis suæ maxime egregius, non immerito appellavit

and therefore let us leave them among the number of those who vituperant quæ ignorant. It is a desperate and dangerous Matter for Civilians and Canonists (I speak what I know, and not without just cause) to write either of the Common Laws of England which they profess not, or against them which they know not. Sure I am, it were a ridiculous Attempt and Enterprize in me (that because I confess I have read some little part of the Civil and Canon Laws, and that with some good assistance and help) by and by to write either of them or against them. But their Pages are so full of palpable Errors and gross mistakings, as these new Authors are out of our Charity pitted, and their Books out of our Judgment cast away unanswered. Alas, our Books of Law seem to them to be dark and obscure; but no wise Man will impute it to the Laws, but to their Ignorance, who by their sole and superficial Reading of them cannot understand the depth of them. I will not sharpen the Neb of my Pen against them, for that I pity the persons, and wish they had more Discretion, for that I honour their Profession. And for *Littleton's Tenures*, I affirm and will maintain it against all Opposites whatsoever, that it is a Work of as absolute perfection in its kind, and as free from Error, as any Book that I have known to be written of any Human Learning. And the Posterity of this Sage of the Law (unto whom he is a great Ornament) doth flourish unto this day; of whom a Man of great excellency in his Profession hath justly said, that he

To the Reader.

was a famous Lawyer, &c. to whose Treaty of *Tenures* faith he, the Students of the Common Law are no less beholding than the Civilians to *Justinian's Institutes*.

Fitzherbert's Abridgement was painfully and elaborately collected and published in 11 H. 8. by *Fitzherbert* then Serjeant at Law. And he wrote also another Book called his *Natura Brevium*, an exact Work exquisitely penned, and published in 26 H. 8. when he was Sir *Anthony Fitzherbert* Knight, one of the Judges of the Court of *Common Pleas*. About the same time he wrote his Treatise of *Justices of the Peace*; wherewith the Judges (as I have seen it reported) found fault, for that he therein affirmed that *Justices of Peace* having by their Commission Authority to hear and determine Felonies, &c. could not hear and determine Murder, which (amongst others) they clearly over-ruled, that *Justices of Peace* lawfully might do.

Doctor and Student, a Book written in 23 H. 8. Dialogue-wise between a Doctor of Divinity and a Student of the Common Law, the Authors Name was *S. Germin*, a discreet Man and well read, I assure you, both in the Common Law, and in the Civil and Canon Laws also.

A Book intitled a *Treatise made by Divines and other learned in the Laws of the Realm, concerning the Power of the Clergy, and the Laws of the Realm*, published in time of King H. 8. and after the six and twentieth year of his Reign; for therein the Act of Parliament made in that year is mentioned, which Book I have.

The small Treatises concerning the manner of keeping Court Ba-

Jurisperitissimum, &c. ad cujus tractatum de *Tenuris* (inquit) *Legum communium* studiosi, haud aliter quam *Juris Civilis* studiosi ad *Justinianj Institutiones* conflunt.

Fitzherberti Compendium elaborate collectum fuit & in anno 11 H. 8. a *Fitzherberto* tunc *Serviente ad Legem* editum. Idem aliud etiam composuit opus, cui nomen est *Natura Brevium*, exquisitissime & accurate structum & anno 26 H. 8. divulgatum ab eodem *Domino* *Antonio Fitzherberto Equite, Judice Curie Placitorum communium*. Idem non multo post, *Tractatum suum de Eirenarcha* condidit: cui *Judices* (ut ex re-scriptis hausi) vitio dederunt, quod eo offerret *Eirenarchas* ex *Commissione* sua ad audiendum & terminandum felonias, &c. potestatem habuisse, homicidium tamen ex malicia prapensa audire & determinare non potuisse, quod (inter alia) *Eirenarchas* per *Legem* posse facile affirmabant.

Dialogus inter sacra Theologia Doctorem & Legum Communium Studiosum, Anno 23 H. 8. conscriptus fuit ab Authore appellato *S. Germin*, viro sine dubio prudente & Juris tum *Municipalis* tum *Civilis & Canonici* satis perito.

Liber, qui inscribitur *Tractatus a Theologis a aliis Juris Patrii peritis, de potestate Cleri, & de Legibus hujus Regni*, emissus fuit sub H. 8. post annum viceffimum sextum suscepti *Regimini*, nam in eodem *Altum* *Parliamentarium* ejusdem *Anni* memoratur; qui *liber* penes me est.

Minores ille Commentationes de Modo tenendi Curiam dominicalem

To the Reader.

nicalem & Visum Franciplegii, &c. Modus tenendi Hundredum, &c. Returna Brevium, Charta Feodi, &c. & Ordinationes pro feodis in Scaccario, in exitu Regni H. 8. compositis fuerant.

Liber inscriptus Curiarum distinctio, ab anno 21 H. 8. collectus fuit: Statutum enim de 21 H. 8. de restitutione bonorum, super indictamento, &c. f. 117. a. recitatur.

Stamfordi Liber est bimebris, unus de causis coronam attingentibus, alter, non ita grandis, de Prærogativis Regiis: Caterum posterior prius vulgatus fuit per W. Stamford Equitem & Jusficiarium Curia Placitorum Communium, quondam e societate Hospitii Grail, virum Legum municipalium consultißimū, cujus posteri hodie vigent.

Perkins, Commentariolū quoddam legum patriarum titulos tractans, scite & literate confectum, regnante E. 6. per Jo. Perkins Juridicum, a nobis Utterbarister dictum, e societate Templi Interioris, emissum fuit.

Missā non faciam Summarium illud Statutorum, & in magnū Fitzherberti compendium Indictum, nec librum Intrationum, percommode & laborate (hoc mihi credas) collecta & edita sub Regina Maria, præsertim duo priora, in oblectationem & auxilium non mediocore Legis studiorum, per W. Rastal gravissimū de Communi Banco Judicem, & virum strenuum & summo opere industriū concessa, multa tamen extunc & Statutorum summario & Libro Intrationum accesserunt: quem etiam habuit Auctorem liber de Ex-

ron and Leet, &c. Modus tenendi Hundredum, &c. Returna Brevium, Charta feodi, &c. and Ordinances for Fees in the Exchequer were all published in the end of the Reign of King H. 8.

* The Book called the *Diversity of Courts*, was compiled after the 21st year of H. 8. for the Statute of 21 H. 8. for Restitution of Goods upon Indictment, &c. is recited, fol. 117. a.

Stamford: This Book containeth two parts, one of the Pleas of the Crown, the other of a lesser Volume, of the Prerogative of the King; but the later was first published by Sir William Stamford Knight, sometimes of Grays Inn, a Man excellently learned in the Common Laws; whose Posterity prosper at this day.

Parkins a little Treatise of certain Titles of the Common Laws, wittily and learnedly composed and published in the Reign of King Edward 6. by John Parkins an Utterbarister of the Inner Temple.

I cannot pretermitt the Abridgment of the Statutes, and the Table, to Fitzherberts Great Abridgment, and the Book of Entries, profitably and painfully (I assure you) gathered and published in the Reign of the late Queen Mary, but especially the first two, tending very much to the ease and furtherance of the Professors of the Law, collected by William Rastal a Reverend Judge of the Court of Common Pleas, and of great Industry; many things being since added both to his Abridgment of Statutes and to the Book of Entries, who originally was

To the Reader.

also the Author of the Book called
the Terms of the Law.

The Lord Brook's Abridgment, first published in the 16th year of Queen Eliz. This was gathered by Sir Robert Brook Knight, Chief Justice of the Court of Common Pleas, for his private use, and was published long after his decease, a worthy and painful work, and an excellent Repository or Table for the Year Books of the Law: *Sed satius est petere Fontes quam sectari Rivulos.*

Plowden's Commentaries, consisting of two parts, both of them learnedly and curiously polished, and published by himself, the one in the 13th year of Queen Eliz., and the other in the 21st year of the same Queen, Works (as they well deserve) with all the Professors of the Laws of high account. The Author was an ancient Apprentice of the Law, of the Middle Temple, of great Gravity, Knowledge Integrity.

The Lord Dyer's Book, containing the fruitful and summary Collections of that Reverend Father of the Law Sir James Dyer Knight, late Chief Justice of the Court of Common Pleas, for his private use and remembrance, and never intended by him in this form to be made public, but were as he left them imprinted after his decease in the 25th year of Queen Eliz. the very Original whereof, written with his own Hand, I have.

Lastly, Master Lambard's Collection of the Office of Justices of the Peace, methodically written, was published towards the end of the Reign of Queen Elizabeth.

Concerning the antiquity of Serjeants at Law, it is evident by the

positione vocabulorum Juridicorum.

Domini Brook compendium editum fuit in anno 16 Regina Eliz. Constructum fuit a Roberto Brook Equite, fori Placitorum Communium Jusficiary principali, usui suo proprio, & in lucem prius non prodit quam Author ipse obdormiverat: præclara quidem incubratio, & codicum legis repertorium perquam utile; Sed satius est petere Fontes quam sectari Rivulos.

Commentariorum Plowd. prima & item altera pars, tam literate quam limatè politæ, a se ipso emissæ fuerunt, prima in anno 13 Reg. Eliz. secunda anno 21 ejusdem Reginae, opera (ut bene merentur) apud legum Professores singulas imprimis magnè æstimatæ. Habuerunt Authorem, virum jurisperitum quæ Apprenticiū vocamus) multis ætate provectū, & societate Medii Templi, eximia gravitatis sciencie & integritatis.

Domini Dyer liber, utilis simul ac compendiosus comprehendit observationes reverendissimi illius legum patris Jac. Dyer Riquies, actionū communium Curie Capitalis non ita pridè Jusficiarius in utilitatē & meditationem suā propriā designatus: quas auctor ipse formæ quæ nunc sunt publicari nunquā cogitavit, verum quales post obitū ejus in viciis 25 Eliz. prælo commissæ fuerunt, quarum quidem origo manu sua propria conscripta penes me est.

Collectanea denique Magistri Lambard de Eiternarchanum officio, methodicè digesta, juxta finem Regni Elizabethæ Reginae publica decernerunt.

Servientium ad legem antiquitatem quod attinet, ex libro de

To the Reader.

de Justiciariorum speculo dilu-
cide patet lib. 2. cap. des Loiers
(ubi de legibus hujus regni &
ejusdem ministris multo ante sub-
jugationem agitur) quod servi-
entes ad legem antiquitus nomi-
nabantur Narratores, & Countors
seu Counteurs, quia Brevis origi-
nalis materiam, & ipsissimum
sectæ fundamentum complectitur
Narratio, ex qua, quasi ex parte
digniore, suam magnati sunt de-
monstrationem, quæ revera idem
est quod in *Jure Civili Libellus*:
Nec nomen istud tempore E.
primi amiserunt, ut in Statuto
de W. 1. cap. 29. ann. 3 E. 1.
liquet, nam ibi appellatur Ser-
viens Narrator; & per Statu-
tum de Articulis super Chartas,
c. 11. ann. 28 E. 1. Nest my a
entender que home ne poet aver
counsel des Countors, & des Sa-
ges gents, pur leur donant; ubi
in hoc vocabulo [Countors] Ser-
vientes ad legem includuntur,
& ad hunc usque diem, cum ad
Servientis gradum quisquam vo-
cetur, in actione aliqua reali ad
septum Curie Placitorum com-
munium narrat: Et sub his vo-
cabulis (Sages gents) includuntur,
Jurisperiti, quos Apprenticios di-
cimus. Sed a tempore Regis E. 1.
hucusq; ob præclara sua in rem-
publicam præstita servitia per
consilia plena prudentia & fide-
litate, Servientes ad legem dicti
fuerunt; quemadmodum enim
seculis retroactis qui pacem con-
servabant Servientes pacis, vel
ad pacem vocabantur, hæc ali-
ter his Servientes legis vel ad
legem, vel in legibus, &c. no-
minantur. Et vetusto illo tracta-
tu de Speculo Justiciariorum ubi
supra, Counteurs, Servientes in
patriæ legibus periti describuntur,

Book of the *Mirror of Justices*,
Justices, lib. 2. cap. des Loiers,
which treateth of the Laws of
this Realm and the Ministers there-
of long before the Conquest, that
Serjeants at Law were of ancient
times called *Narratores*, *Countors*
or *Counteurs*, because the Count
or Declaration comprehended the
substance of the Original Writ,
and the very Foundation of the
Suit, of which part, as of the
worthiest, they took their denomi-
nation, and is all one in effect,
with that which in the Civil Law
is called *Libellus*; and they lost
not that Name in the Reign of
King E. 1. as it appeareth by the
Statute of W. 1. & 29. ann. 3 E. 1.
for there he is called *Serjeants Coun-
tor*, *Serviens Narrator*: And by
the Statute of *Articuli super Char-
tas*, cap. 11. anno 28 E. 1. Nest
my a intender que home ne poet
aver counsel des countors, & des
sages gents pur leur donant; where
under this word [Countors] Serjeants
at Law are included, and until this
day, when any proceeds Serjeant,
he doth count in some real Action
at the Bar of the Court of Com-
mon Pleas; and under these words
(Sages gents) are included Appren-
tices at Law: But since the Reign
of E. 1. they have always been
called *Servientes ad legem* for their
good Service to the Common-
wealth by their sound Advice in
Law; and as in ancient time, they
that preserved and kept the Peace
were called *Servientes pacis* or *ad
pacem*, so these Men are called *Ser-
vientes legis* or *ad legem* or *in le-
gibus*, &c. And in that ancient
Treatise of the *Mirror of Justices*
ubi supra, Counteurs are described
to be Serjeants skilful in Law of
the Realm, which serve the com-

To the Reader.

most People to pronounce and defend their Actions in Judgment for their Fee, whose duty is there excellently described. This proveth the great Antiquity of the Serjeants at Law. *Inter placita de Palamentum ten' apud Ashering ann. 19 E. 1.* in that great Case of *Thomas de Weyland* it is said, *Servientes in legibus & consuetudinibus Anglie experti, &c.* and in all our Books of years and terms from the beginning there is mention made of them; as in *1 E. 3. 22. Serjeant le Roy, &c.* and in *1 E. 3. f. 16.* there is mention made of an Apprentice; and he is called an Apprentice of the Law, of this word (*apprender*) for that he ought to be *apprised in la ley*, and hath manifested the same by open reading upon some Statute in that Inn of Court whereof he is Fellow, and is next in degree under a Serjeant. And this Appellation is very ancient, and so is proved *Rotulo Palamenti in Crastino Epiphaniae, anno 20 E. 1. Rot. 3. in dorso.* The Act saith, *De Attornatis & Apprenticiis Dominus Rex injunxit Johanni de Muntingham & sociis suis, quod ipsi per eorum discretionem providerent & ordinarent certum numerum de qualibet comitatu, &c.* And so is farther provided by a Record, *inter communia Placita ten' in Hustingo London' die Lune in Festo Sancti Clementis Papa anno Reg. E. 3. post Conquestum 23. viz. die Jovis proxime ante festum Sancti Gregorii Papa anno Domini 1348. Ego Johannes Tave Armiger lego animam meam Deo, &c. Item lego omnia tenementa mea cum omnibus pertinentiis quas habeo in parte Australi in Parochia Sancti*

populo, ad officium suum pronuntiandas & defendendas usque ad sententiam eorum pro honorario suo deservituri: quorum officia ibid. praelari dpinguntur. Hoc magnam antiquitatem servitium ad legem demonstrat. Inter Placita de Parliamentum ten' apud Ashering ann. 19 E. 1. in infirmi illo casu Thomae de Weyland, dicitur, Servientes in legibus & consuetudinibus Anglie experti, &c. & in singulis nostris libris de annis & terminis a primo, de illis fit mentio; ut in 1 E. 3. 22. Serjeant le Roy, &c. Et in 1 E. 3. f. 16. de Apprenticio fit mentio: atque ex hoc verbo (apprendre) dicitur Apprenticius, quia esse debet apprised in la ley, eamque ejus peritiam per praelectionem, in Hospitio illo Curiae cujus a societate est, super statutis habitam, manifeste indicavit. & Servitium gradum proximis est. Quia & denominatio hujusmodi antiqua admodum est, & sic testatur, Rot. Parl. in Crastino Epiph. 20 E. 1. Rot. 3. in dorso: Actus sic se habet: De Attornatis & Apprenticiis, Dominus Rex injunxit Johanni de Muntingham & sociis suis, quod ipsi per eorum discretionem, providerent & ordinarent certum numerum de quolibet Comitatu, &c. Et sic ulterius affirmatur ex archivio, inter Communia Placita tena in Hustingo London' die Lune in Festo Sancti Clementis Papa, anno Regni E. 3. post Conquestum 23. viz. die Jovis proxime ante Festum Sancti Gregorii Papa, anno Domini 1348. Ego Johannes Tave Armiger lego animam Deo, &c. Item lego omnia tenementa mea cum omnibus pertinentiis quas habeo in parte australi in Parochia Sancti

To the Reader.

rochia Sancti Andree, &c. Alicie Uxori mee ad totum terminum vite sue, Et quod post decessum predictae Alicie, totum illud Hospitium in quo Apprenticii legis habitare solebant, per Executores meos, si superfluit fuerint, &c. vendatur, & quod de pecunia inde percepta unus Capellanus idoneus pro anima mea, &c. celebrandus, dummodo pecunia illa perseveraverit, inveniat. Item lego totum illud tenementum in quo habito cum tribus shopis post decessum ipsius Alicie ad fabricam Ecclesie Sancti Andree. Ex hoc monumento tria colligo, primo de antiquitate Apprenticiorum Legis, Quod adeo Cancellaria in Vico Holborn, modo Hospitium Tavii ante an. 23 E. 3. (circiter an. 1264. vero elapsos) antiquitus fuerat Hospitium Curie, in quo legis Apprenticii tempus solebant impendere: 2. De antiquitate & vero horum eadem Cancellaria nomine, rectius dictarum Hospitium Tavii. 3. Quod super hoc testamentum, de casu in 13 R. 2. Tit. Devise Fitzh. 27. Judicium ferebatur, quod remanere tenementi prefata Alicie ad terminum vite sue legati, ad Rectorem Ecclesie de Holborn & Successores suos spectabat. Tum & 39 E. 3. f. 47. b. in Quod ei deforceat, Ingleby, Serviens ad Legem, qui Tenenti consulebat, exceptionem hanc intendebat, Breve ipsud (inquit) fundamentum habet Recordum, volumus igitur cogatur patens Recordum (a quo Breve hoc pendet) in certitudine deponere: & in casu Attinens & Scire facias (qua a Recordis pendens) Tenenti auditum Re-

Andree, &c. Alicie Uxori mea ad totum terminum vite sue, Et quod post decessum predictae Alicie totum illud Hospitium, in quo Apprenticii legis habitare solebant, per Executores meos si superfluit fuerint, &c. vendatur, & quod de pecunia inde percepta unus Capellanus idoneus pro anima mea, &c. celebrandus, dummodo pecunia illa perseveraverit, inveniat. Item lego totum illud tenementum in quo habito cum tribus shopis post decessum ipsius Alicie ad fabricam Ecclesie Sancti Andree. Out of this Record I observe three things; first, for the Antiquity of Apprentices of the Law, That the House of Chancery in Holborn now called Tavies Inn, had been of ancient time, before the 23d year of E. 3. (which is about 264 years past) an House of Court, wherein the Apprentices of the Law were wont to inhabit: 2. For the Antiquity and true Name of that House of Chancery, rightly called Tavies Inn. 3. That upon this Will the Case in 13 R. 2. Tit. Devise Fitzh. 27. was adjudged, That the Remainder of the House devised to the said Alice for life, belonged to the Parson of the Church of Holborn and his Successors. And in 39 E. 3. f. 47. b. in a Quod ei deforceat Ingleby, Serjeant, of Counsel with the Tenant took this Exception; This Writ (saith he) is founded upon a Record precedent, and therefore we pray, that the Demandant may put the Record (whereupon this Writ dependeth) in certain, and in Case of Attains and Scire facias (which depend upon Records) the Tenant shall have Oyer of the Record: Wilby and Shipwinb, This was

To the Reader.

was never any Exception in this place, but we have heard it oftentimes amongst the Apprentices in Houses of Court. And concerning Apprentices of Law thus much shall suffice.

The manner of the Creation of Serjeants is also most ancient; for it is by Writ, which is commonly found in very ancient Registers, and continued to this day, in this form, *Rex, &c. Willielmo Herle Salutem; quia de advisamento concilii nostri ordinavimus vos ad statum & gradum Servientis ad legem, in quindeno Sancti Michaelis proximi futur. suscipiend.*, Vobis mandamus firmiter injungentes, quod vos ad statum & gradum predictum ad diem illum in forma predicta suscipiend. ordinetis & preparetis: & hoc sub pena mille librarum. Teste meipso, &c. wherein for the dignity of him, it is to be observed, 1. That he is called by the King by advice of his Council in that behalf, 2. By the Kings Writ, 3. The Writ is directed to him in the plural number, *vobis*, a special mark of Dignity: 4. That he is called *ad statum & gradum Servientis ad legem*: And in the Act of Parliament of 8 H. 6. cap. 10. of the Serjeant it is said, *When he taketh the same state upon him*: And in the Act of Parliament of 8 E. 4. cap. 2. *al creation des Serjeants del Ley, &c.* and Creation is ever applied to Dignity. But it is true, that the said Writ is not put into the printed Register, no more than Writs to call any to be a Baron of the Realm or of higher Dignity, for that those Writs originally are only *de gratia Regis*; and such as are published in the printed Register are originally *de Jure Le-*

cordi obtinebit. Wilby & Skipwith, *hujusmodi exceptionem hoc loci nunquam novimus, ceterum, inter Apprenticios in Hospitiis Curie frequentem audivimus. De Apprenticiis satis.*

Modus creandi Servientes item antiquissimus; est enim per Breve, quod in Registorum vetustissimorum plerisque invenitur, & in hunc diem inolevit, sub hac forma, Rex, &c. Willielmo Herle Salutem, Quia de advisamento Concilii nostri, ordinavimus vos ad statum & gradum Servientis ad legem, in Quinden' Sancti Mich. proximi futur, suscipiend., Vobis mandamus firmiter injungentes, quod vos ad statum & gradum predictum, ad diem illum, in forma predicta suscipiend., ordinetis & preparetis; & hoc sub pena mille librarum: Teste meipso, &c. Unde in ejus honorem observandum est: 1. Quod a Rege, de advisamento Concilii sui inde, evocatur: 2. Per Breve Regis: 3. Breve istud in plurali numero ad eum ablegatur, vocabulo vobis, Dignitatis argumento singulari: 4. Ad statum & gradum Servientis ad Legem vocatur. Et in Acto Commisiali de 8 H. 6. cap. 10. de Serviente dicitur, cum statum eundem in se suscipit: Et in Acto Parlamentario de 8 E. 4. c. 2. Al creation des Serjeants del Ley, &c. & Creatio dignitatem semper intelligit. Verum interea est, quod dictum Breve in Registrum excusum non inseritur, bandseus atque Brevia ad promovendum aliquem in Baronem Regni, vel amplius dignitatem, eo quod istiusmodi Brevia sunt originaliter de gratia Regis

To the Reader.

Regis tantūmodo ; & quæ ad
usus publicos in Registro impri-
muntur, originaliter de jure Legis.
De vocationis ejus celebritate, de
Capitis, Pallio, Capillari, aliisque
insignibus, de apparatu Epulorum
lautissimo, de aureis annulis ero-
gatis, de ministris, aliisque mag-
nificis de more Ceremoniis, (ad
propositam questionem non atti-
nensibus,) vel verbum quidē di-
cere non statuo.

Honorem eorum antiquum di-
uturniorem esse credo, eo quod
vestes & insignia status &
gradus satis olim solita, nulla
surrepta immutatione, hodie u-
surpant : plerumque enim sit an-
tiquam cujusque ordinis digni-
tatem evanescere una cum ve-
stimenti immutatione, sit licet
magis pretiosum, aulicum, &
splendidum illud novitium. In
Acto Parliamenti de 24 H. 8.
cap. 13. (suscepto tum statu
tum gradu) multos Assessores
sublimis Tribunalis in Curia
summae eminentiæ in Aula
Westmonasteriensis præcedit :
Sed in hoc salcem immittere
nolo, cum de præcedendo, lex
nullum constituit remedium, &
mibi res est cum lege tantum.
De status hujus & gradus an-
tiquitate in veneranda rerum
Antiquarum Schola, plura di-
dici : Sed de hac re hoc satis
superque : Et valeant qui con-
tabulatis mendaciis antiquitatem
superstruunt.

Ex Serviētibz hisce tanquā
e seminario Jusitiae, cooptantur
Judices, nullus enim nisi Servi-
ens Subsellii Regii, sive actionum
communium Judex, vel Capitalis
Baro Scaccarii, constitui potest,
nec in Hospitiū Serviētiū
ad legem unum vel alterum se

gis. Of the Solemnity of his
Call, viz. his Hood, Robes,
Coif, and other significant Orna-
ments, of the great and sumptu-
ous Feast they make, of the
Rings of Gold they give, of their
Attendants, and other great and
honourable Ceremonies, I pur-
pose not at this time (being not
pertinent to the Question I have
in hand) to write any thing at
all.

Their ancient Reputation is (I
assure my self) the better continu-
ed, because they without the least
alteration continue the ancient Ha-
bits and Ornaments belonging to
their state and degree ; for most
commonly the ancient Reverence
of any Profession vanisheth away
with change of the ancient Ha-
bit, albeit the newer be more
costly, courtly and curious. And
in the Act of Parliament of
24 H. 8. cap. 13. he (having both
statum & gradum) hath the Pre-
cedency of divers that sit on the
high Bench in a Court of great
Equinency in Westminster-Hall :
But seeing there is no Remedy
given by Law for Precedency, I
(dealing only with matters in
Law) mean not to meddle with
it : And albeit I have learned
more of the Antiquity of this
State and Degree in the School of
venerable Antiquity, yet hereof thus
much for this time shall suffice ; Et
valeant qui contabulatis mendaciis
antiquitatem superstruunt.

Of these Serjeants, as of the
Seminary of Justice, are chosen
Judges ; for none can be a
Judge, either of the Court of
Kings Bench, or of the Common
Pleas, or Chief Baron of the Ex-
chequer, unless he be a Serjeant ;
neither can he be of either of
the

To the Reader.

the Serjeants Inns, unless he hath been a Serjeant at Law, for it is not called Judges or Justices Inn, but Serjeants Inn; for I have known Barons of the Exchequer (that were not of the Coif, and yet had judicial places and voices) remain in the Houses of Court whereof they were Fellows, and wore the Habit of Apprentices of the Law.

But I perswade my self you desire to read the Cases whereof I have given you a taste, & tempus est Veritatis & Justitiæ sancta adire penetralia: And therefore here will take my leave of the good Student, to whom I wish with his increase of reading more and more a delight in this Study, an excellent mean to attain unto augmentation of venerable knowledge (which is one of the ends of my labours) not knowing what better thing to desire for him; and conclude with this Distichon and direction,

*conferre potest, nisi qui prius fuit
Serviens ad legem, non enim fu-
dicum vel Justiciariorum hospi-
tium dicitur, sed hospitium Ser-
vientium ad legem: Novi enim
Barones Scaccarii, hos qui non fu-
erunt de gradu de le coife (ut lo-
quimur) Judicis tamen vicem
egerunt, in hospitio Curia, quorū
fuerant socii, residisse, & more
Apprenticiorū legem vestitos fuisse.*

*Tandem vobis sit animus per-
suasum me habeo, casus illos evol-
vendi, quos adhuc tantum gusta-
tis, & tempus est Veritatis &
Justitiæ sancta adire penetralia:
Valedicam igitur studioso, cui,
cum lectionis incremento, magis
magisque in hoc studio delecta-
tionem expeto, quæ aditum ad
venerabilem scientiam augen-
dam dat facillimum (quem, ex
alii, statui sudorem meorum
suum) nesciens quid melius
majusve ei vellem: hoc itaque
Disticho & consilio rem confici-
am,*

*Discendi modus est, dum te nescire videbis:
Disce, sed assidue; Disce, sed ut sapias.*

Term. Sanct. Mich.

Anno Regni Domini Jacobi nunc Regis ^{Roper.}
Angliæ decimo, Rotulo 574.

Le Case de Sutton's Hospital.

Memorandum quod alias, scilicet Termino Sanctæ ^{Midd. ff.}
Trinitatis ultim. p̄terit coram Domino Rege apud ^{Full. Ch. Hist. lib.}
Westm. vesi Simon Baxter Geni per Georgium Cup- ^{10. p. 65, 66.}
pledick Attornat suum, & protulit hic in Cus
dict' Domini Regi tunc ibidem existē quendam billam suam
versus Richard' Sutton Armig & Johannem Lawe Geni in cu-
stod' Marf &c. de placito transg Et sunt pleg de profi Johan-
nes Doo & Richardus Roo: quæ quidem billa sequitur in
hæc verba. ff. Midd. ff. Simon Baxter Genes queritur de
Rich. Sutton & Johanne Lawe in custod. Marf Marefc Doru
Regis coram ipso Rege exist', de eo quod ipsi tricesimo die
Maij Anno Regni Domini Jacobi nunc Regis Angliæ decimo
vi & armis, &c. Clausum & Domum ipsius Simonis, viz.
unum capitale mesuag cum pertiū voc' **The late dissolved**
Charterhouse bestides Smithfield, apud Paroch. Sancti Sepul-
chri in Corn præf fregef & intraves, Et alia enormia ei intu-
lerunt, contra pacem dict' Domini Regis nunc ad dampnum
ipsius Simonis quadragint' libras & inde produc' sectam, &c.

Et modo hic ad hunc diem, scilicet diem Veneris proximi
post Octab' Sancti Mich. isto eodem Termino, usque quem
diem præd. Richard. & Johannes habues licentiam ad billam
prædict' interloquend' & tunc ad respond', &c. coram Do-
mino Rege apud Westm vesi tam prædict' Simon Baxter per
Attorn suum predict. quam predict. Richard. & Johannes per
Thomam Heyward Attornatum suum.

Et præd. Richard' & Johes vesi & defend' vim & injuriam
quando

A

quando, &c. Et dicunt quod ipsi non sunt inde culpabiles, & de hoc possunt se super patriam, Et Præd. Simon Baxter similiter, &c. Ideo venit inde Jus coram Domino Rege apud Westmonasterium die Sabbati proximo post Octabis Sancti Hillarii, Et qui nec, &c. Ad recognoscendum, quia tam &c. Idem dies datus est partibus prædictis ibidem, &c.

¶ De quo die Jus præd. inter partes præd. de placito præd. per Juratos positum fuit inde inter eos in respectu coram Domino Rege apud Westm. usque die Lunæ proximo post Crastinum Purificationis Beate Mariæ ex tunc proximo sequenti pro defectu Jus, &c. Ad quem diem, coram Domino Rege apud Westmonasterium, venit tam præd. Simon Baxter quam præd. Richardus Sutton & Johannes Lawe per Attornatos suos præd. Et Jus Juris præd. exacti similiter venerunt Qui ad veritatem de præmissis dicendum electi, tria & juratos dicunt super sacramentum suum, quod diu ante præd. tempus quo supponitur transgressi præd. superius fieri, Quidam Thomas Sutton Armiger scilicet de & in omnibus illis Maneriis & Dominis de Southminster, Norton, Little Hallingbury alias Halingury Bouchers, & Much Stanbridge in Comitatu Essex, cum omnibus suis juribus, membris & pertinenciis quibuscunque, Ac etiam de & in omnibus illis maneriis & Dominis de Bustingthorpe alias Bullingthorpe & Dunnesby in Comitatu Lincoln cum suis juribus, membris, & pertinenciis quibuscunque, Ac de & in omnibus illis maneriis de Salthorpe alias Saltrop alias Halthorpe, Chilton & Blackgrove in Comitatu Wilts, cum suis juribus, membris, & pertinenciis, Ac de & in omnibus illis Terris & Pasturis vocatis Blackgrove continens per estimationem ducentas Acres Pasturæ cum pertinenciis in Blackgrove & Wroughton in Comitatu Wilts, Ac de & in omnibus illis maneriis de Mibenden alias Missenden aliter vocatis manerium de Missunden in Parochia de Wroughton, Lydeyard, & Tregose in dicto Comitatu Wilts, cum omnibus suis juribus, membris & pertinenciis, Ac de toto illo manerio de Elcombe & Parke vocatis Elcombe Parke cum pertinenciis in dicto Comitatu Wilts, Ac de & in toto illo manerio de Wattlefcote alias Wigglefcote alias Wiggelfcote cum pertinenciis in dicto Comitatu Wilts, Ac etiam de toto illo manerio de Westcote alias Westcote cum pertinenciis in dicto Comitatu Wilts, Ac etiam de & in omnibus illis Terris & Pasturis, continens per estimationem centum Acres Terræ & sexaginta Acres Pasturæ cum pertinenciis, in Wigglefcote & Wroughton in dicto Comitatu Wilts, Ac de & in toto illo manerio de Uffcot cum pertinenciis in dicto Comitatu Wilts, Ac etiam de omnibus illis duobus

Part X. Le Case de Sutton's Hospital.

2

bus messuagiis, & mille acris terræ, duobus mille acris pastura, trescentis acris pascuæ, & trescentis acris bosci, cum pertinentiis in Broadhinton in dicto Comitatu Wilts, ac etiam de & in omnibus illis maneriis & dominiis de Camper, alias Camper Castle, aliter vocat Castle Camper, cum pertinentiis, scituat, jaceat, existat & extendat in Comitatu Cantabrig & Essex, vel aliter coram, vel alibi in Regno Angliæ, Ac etiam de & in toto illo Manerio de Ballham in Comitatu Cantabrig, cum omnibus & singulis juribus, membris & pertinentiis quibuscunque, Ac etiam de & in omnibus illis messuagiis & terris, scituat & existat in parochiis de Hackney & Tottenham in Comitatu Middl, cum suis juribus, membris, & pertinentiis quibuscunque, Quod quidem messuagium, nuper perquisitum fuit de Willielmo Bower Milit, & dicti tenet in Tottenham autem sunt vel nuper fuit in tenura sive occupatione Willielmi Benning Yeoman, Ac de & in omnibus & singulis maneriis, dominiis, messuagiis, terris tenementis, reversionibus, servitiis, pascuis, pasturis, bosci, advocacionibus, patronagiis Ecclesiarum, & hereditamentis prædicti Thome Sutton quibuscunque scituat, jaceat, vel existat in dictis Comitatu Essex, Lincoln, Wilts, Cantabrig, & Middlesex, sive aliter coram, cum omnibus & singulis suis juribus, membris, & pertinentiis quibuscunque in dominico suo ut de feodo: Et iidem Jurati ulterius dicunt super sacramentum suum prædictum, Quod prædicto Thome Sutton sic inde seisis existat ante prædictum tempus quo, &c. Scit ad Quart Session Parliamenti incepit & tenet per prorogationem apud Westmonasterium in Comitatu Middl nono die Februarii, Anno Regni Domini nostri Jacobi Dei Gratia, Angliæ, Franciæ, & Hiberniæ Regis, Fidei Defensoris, &c. septimo, & Scotiæ quadragesimo tertio, & ibidem continuat usque vicessimum quartum diem Julii tunc proximi sequenti & tunc prorogatur usque decimum sextum diem Octobris tunc proximi sequenti inter alia inactis & stabilitis fuit autoritate ejusdem Parliamenti, prout sequitur in hæc verba.

An Act to confirm and enable the Erection and Establishment of an Hospital, a Free Grammar School, and sundry other Godly and Charitable Acts and Uses, done, and intended to be done and performed by Thomas Sutton Esquire.

¶ 2

¶ Humbly

Le Case de Sutton's Hospital. Part X.

Humbly beareth your Majestie, your loyal and dutiful Subject Thomas Sutton of Baltham in the County of Cambridgeshire, That it may please your most excellent Majestie, and the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, to enact, ordain, and establish, And be it enacted, ordained and established by the authority aforesaid. That in the Town of Wallingbury, otherwise called Wallingbury Bouchers in the County of Essex, there may be builded and erected (at the Costs and Charges of your Suppliant) one meet, fit and convenient House, Hallings and Rooms, for the abiding and dwelling of such number of poor People, Men and Children, as your Suppliant shall name, limit and appoint to be lodged, harboured, abide, and be relieved there, And for the abiding, dwelling, and necessary use of one Schoollmaster and either to instruct the said Children in Reading, Writing and the Latine and Greek Grammar, And of one Divine and good Preacher to instruct and teach all the rest of the same House in the knowledge of God and his Word, And of one Master to govern all these persons of, in, or belonging unto the same House, And that the same Hall and may be called and named the Hospital of King James, founded in Wallingbury in the County of Essex, at the humble Petition, and at the only Costs and Charges of Thomas Sutton Esquire: And that the Right Reverend Father in God, Richard 8th Archbishop of Canterbury, and his Successors Archbishops there, Thomas Lord Cromwell Lord Chancellor of England, and such as after him shall succeed to be Lord Chancellors or Lord Keepers of the Great Seal of England, for and during the time they shall so continue or be in the same Office, Robert Earl of Salisbury, Lord High Treasurer of England, and such as after him shall succeed to be Lord Treasurers of England, for and during the time they shall continue or be in the same Office, The Reverend Father in God Launcelot Bishop of Ely and his Successors Bishops there, Richard Bishop of Rochester, and Dean of the Cathedral Church of Westminster, and his Successors of and in the same Deanery of Westminster, Sir Thomas Foster Knight, one of the Justices of your Majesties Court of Common Pleas usually holden at Westminster, Sir Henry Hobart Knight, your Majesties Attorney General,
John

John Overall Doctor of Divinity, Dean of the Cathedral Church of Saint Paul in London; and his Successors Deans there; Henry Thursby Esquire, one of the Masters of your Majesties Court of Chancery; Thomas Fortescue, Thomas Page, Geoffrey Nighingale and Richard Sutton Esquires, John Lawe and Thomas Brown Gentlemen; and such others as shall be from time to time for ever hereafter chosen and nominated in and to the places and steads of such of them as shall decease by your Suppliant during his Life, and after his decease by the most part of them which then shall be Governors of the said Hospital to be and succeed in and to the place and places of him and them deceasing, shall and may be the Governors of the said Hospital and of the Members, Goods, Lands, Revenues and Hereditaments of the same at all times hereafter for ever, and that the same Governors and Hospital shall for ever hereafter stand and be incorporated, established and founded in name and in deed a Body Politick and Corporate, to have continuance for ever, by the name of the Governors of the Hospital of King James founded in Wallingbury in the County of Essex, at the humble Petition and at the only Costs and Charges of Thomas Sutton Esquire, and that they the said Governors may have a perpetual succession, and that by that name they and their Successors may for ever hereafter have, hold, and enjoy the Manors, Lordships, Villages, Lands, Tenements and Hereditaments hereafter mentioned, without any Licence or Pardon for any alienation of them or any of them, and without any Licence of or for Her Majesty, or any other Law or Statute to the contrary notwithstanding, That is to say; your Suppliants Manors and Lordships of Southminster, Noxon, Little Wallingbury alias Wallingbury Bouchers, and Much Stambroge in the County of Essex, with all their and every of their Rights, Members and Appurtenances whatsoever, and also all those your Suppliants Manors and Lordships of Wallingthorpe and Duresby in the County of Lincoln, with their and either of their Rights, Members and Appurtenances whatsoever, and also all those your Suppliants Manors of Salthope alias Salthrop, Chilton and Blackgrove, with their and every of their Rights, Members and Appurtenances in the said County of Wilts, and also all those your Suppliants Lands and Pasture Grounds called Blackgrove, containing by estimation

Le Case de Sutton's Hospital Part X.

two hundred Acres of Pasture, with the Appurtenances in Blackmore and Wroughton in the said County of Wilts, And also all that your Suppliants Manor of Withenden, otherwile called the Manor of Withenden in the Parishes of Wroughton, Lyford and Ceryock in the said County of Wilts, And all that your Suppliants Manor of Cicombe, and the Park called Cicombe Park in the said County of Wilts, And all that your Suppliants Manor of Mattlestote, otherwile called Mattlestote, otherwile called Mattlestote, otherwile called Mattlestote, in the County of Wilts, And all that your Suppliants Manor of Mattlestote, otherwile called Mattlestote with the Appurtenances in the said County of Wilts, And also all these your Suppliants Lands and Pastures, containing by estimation one hundred Acres of Land, and three hundred Acres of Pasture in Mattlestote and Wroughton in the said County of Wilts, And also all that your Suppliants Manor of Mattlestote with the Appurtenances in the said County of Wilts: And all these your Suppliants two Villages and one thousand Acres of Land, two thousand Acres of Pasture, five hundred Acres of Meadow, and three hundred Acres of Moor with the Appurtenances in Bodeghinton in the said County of Wilts, And also all these your Suppliants Manors and Lordships of Compton, otherwile called Compton, otherwile called Compton Castle, otherwile called Castle Compton, situate, lying being and extending in the Counties of Cambridge and Essex, as in either of them, as situate within the Realm of England, And also all that your Suppliants Manor of Dullham in the County of Cambridge with all and singular the Rights, Members and Appurtenances thereof whatsoever, And also all that your Suppliants Village and Lands situate and being in the Parishes of Pochey and Cotenham in the County of Essex, as in either of them with their and either of their Rights, Members and Appurtenances whatsoever, which said Village was lately purchased of Sir William Bowyer Knight, and the Lands in Cotenham now as late in the tenure or occupation of William Bening, Farmer, and also all and singular the Manors, Lordships, Villages, Lands, Tenements, Rectories, Services, Rents, Pastures, Woods, Meadows, Patronages of Churches, and Beneficements of your Suppliant whatsoever situate lying or being within

within the said Counties of Essex, Lincoln, Essex, Cambridge and Middlesex, or any of them, with all and every their Rights, Members, and Appurtenances whatsoever: And also all your Suppliants Letters Patents, Indentures, Deeds, Evidences, Bonds and Writings concerning the Premises of any of them. And all such Conditions, Warranties, Covenants, Actions, Suits, Expenses, Penalties and Demands as shall or may be had by any Person or Persons upon or by reason of them or any of them, except those your Suppliants Honors or Lordships of Littlebury and Hadstock in the said County of Essex. And except all your Suppliants Lands, Tenements and Hereditaments in Littlebury and Hadstock aforesaid, or in either of them. And that the said Governors and their Successors by the same name shall and may have power, ability and capacity, to demise, lease and grant their Possessions and Hereditaments, and every of them, and to take, acquire and purchase, and to sue and be sued, and to do, perform and execute all and every other lawful act and thing, good, necessary, and profitable for the said Incorporation, in as full and ample manner and form to all intents, constructions and purposes, as any other Incorporations of Body Politick or Corporate, fully and perfectly founded and Incorporated may do, and that the same Governors and their Successors for the time being may have and use a Common Seal for the making, granting and vending of such their Demises and Leases, and for the doing of all and every other thing touching or in any wise concerning the said Incorporation, In which Seal shall be ingraven the Arms of the said Thomas Sutton your Suppliant: And also that it may be further enacted by the authority aforesaid, and be it enacted by the authority aforesaid, That your Suppliant during his Life, and the said Governors and their Successors for the time being, or the most part of them, after his decease, shall and may have full power and lawful authority to break, alter and change the said Seal: And that your said Doctor during his Life, and the said Governors and their Successors for the time being, or the most part of them, after his decease, shall and may have full power and authority to nominate and appoint, and shall and may nominate and appoint, when and as often as he and they shall think good, such person or persons as he and they shall think meet to be
Master

Le Case de Sutton's Hospital. Part X.

Waster, Preacher, Schoolmaster, Alther, poor Men, poor Children and Officers of the said Hospital, and when any of them by Death, Resignation, Degradation, or otherwise shall become void, shall and may within one Month next after such absence, by Writing under their said Common Seal, nominate and appoint one or more learned, godly, discreet and meet men and persons to be Waster, Preacher, Schoolmaster, Alther, poor Men, poor Children, and Officers in the places of them and every of them so deceased, resigning, or otherwise becoming void, and that in case the said Governors and their Successors for the time being, or the most part of them, shall not within one Month after such absence make such nomination and appointment as aforesaid, That then and so often, and in every such case, from and after the decease of your said Mayor, it shall and may be lawful to your Majesty, your heirs and Successors, by your Letters Patents under the Great Seal of England, to nominate and appoint some meet, godly and learned men in and to the places void, by such default of the said Governors and their Successors for the time being, or the most part of them, as is aforesaid: and that it shall and may be lawful to and for the said Waster, Preacher, Schoolmaster, Alther, poor People, poor Children, and Officers of the said Hospital to remain, assemble, be and cohabitate together in the said House, Buildings and Hospital: And that it may be further enacted by the authority aforesaid, and be it enacted by the authority aforesaid, That your said Suppliant during his Life, and that the said Governors and their Successors for the time being, or the most part of them, after his decease shall and may have full power and authority under the said Common Seal, to make, appoint, set down and subscribe such Rules, Statutes and Ordinances for the Order, Rule and Government of the said Hospital, and of the said Waster, Preacher, Schoolmaster, Alther, poor Men, poor Children and Officers, and their Successors, and for their and every of their expenses and allowances, by or towards them or any of their maintenance and relief, as to your said Suppliant during his Life, and the said Governors and their Successors for the time being, or the most part of them, after his decease, shall seem meet and convenient, And that the said Order, Rules, Statutes and Ordinances so by him, them or any of them made, set down,

down, as prescribed as aforesaid, shall be and stand in full force and strength in Law, the same not being repugnant nor contrary to your Majesties Prerogative Royal, nor to the Laws or Statutes of this your Majesties Realm of England, nor to any Ecclesiastical Canons or Constitutions of the Church of England, then in force and use: And that your Suppliant during his Life, and the said Governors and their Successors for the time being, or the most part of them, and such of them as your Suppliant shall thereto appoint and nominate, shall and may, after the decease of your said Suppliant have power and authority to visit the said Hospital, and to order, reform and redress all disorders and abuses in and touching the government and disposing of the same, And further, to censure, suspend, and deprive the said Master, Preacher, School-master, Clerk, poor Men, poor Children, and Officers for the time being, and every of any of them, as to him and them shall seem just, fit and convenient, so always that no Visitation, act or thing in or touching the same, be had, made or done, other than by your Suppliant during his Life, or the said Governors and their Successors for the time being, or the most part of them after his decease, or by such of them as your Suppliant shall thereunto nominate and appoint: And also that it may be further enacted by the authority aforesaid, And be it enacted by the authority aforesaid, That the said Preacher and Minister of the word of God which shall be placed in the said Hospital, to and for the uses and purposes aforesaid, from time to time hereafter shall and may enter into, take, hold and enjoy the Rectory and Parsonage of Dallingbury aforesaid, in and to his own proper use and behoof, for and during so long time as he shall be Preacher and Minister there, without any other Presentation or Admission, Institution or Induction, And that no Lease shall hereafter be made of the said Parsonage, or of any part or portion thereof, other than such as shall determine and end when and as soon as any such Person as shall be the Preacher or Minister of and in the said Hospital, when the same Lease shall be made, shall decease or resign, leave or be put out and removed from his said place of Preacher or Minister of and in the said Hospital, Saving always and reserving to your Majesty, your Heirs and Successors, and to all and every other person and persons,
Bodies

Le Café de Sutton's Hospital. Part X.

[illegible][illegible]

quosdam Theophilum Dñm Howard Filium & Hered. Apparen-
dicti Comitis Suff. & Thomam Comitem Arundel & Surf, &
Willielmum Dñm Howard de Nawarde in Comitatu Cambr.
ex una parte, & p̄fat Thomā Sutton per nomen Thomæ Sutton
de Balsam in Com̄ Cantabrig Armigeri ex altera parte factam,
Ac infra sex menses tunc p̄sū sequen in Caf dicti Dñi Regis
nunc de Comuni Banco apud Westm̄ p̄rad. tunc existens debet
modo de recordo irrot secundum formam statuti in hujusmodi
casu edit & provis. Ac cujus una pars tam sigill p̄rad. Thomæ
modo Comit̄ Suff. quam sigill p̄rad. Theophili Dñi Howard
Tho. Comit̄ Arundel & Surf, Willielmi Dñi Howard signat,
Jurat p̄rad. in evidentiis ostens. fuit geres dai eisdem die & an-
no, pro & in consideratione summe tresdecim mille librarum
legalis monete Angliæ per eundem Thomā Sutton p̄ratat Thomā
Com. Suff. in manibus solut, barganizavit & vendidit omnia &
singula p̄missa cum pertiis, existens voc. **The late dissolved
Charterhouse besides Smithfield**, in p̄rad. Comitatu Midd.
unde &c. eidem Tho. Sutton, habend. & tenend. sibi & hered.
suis in perpetuum, ad solum opus & usum ejusdem Thomæ hered.
& assign. suorum in perpetuum, cujus quidem indenturæ tenor
sequitur in hæc verba, **This Indenture made the ninth day of
May in the ninth year of the Reign of our Sovereign Lord
James, by the grace of God King of England, France and
Ireland defender of the Faith, &c. and of Scotland the four
and fortieth, Between the Right Honourable Thomas Earl
of Suffolk, Lord Chamberlain of the Kings Majesties
most honourable household, The Right Honourable Theophi-
lus Lord Howard, Son and Heir Apparent of the said Earl
of Suffolk, The Right Honourable Thomas Earl of Arun-
del and Surrey, And the Right Honourable William Lord
Howard of Naward in the County of Cumberland on the
one Party, and Thomas Sutton of Balsam in the County
of Cambridge Esquire, on the other Party, Witnesseth,
That the said Right Honourable Thomas Earl of Suffolk,
Theophilus Lord Howard, Thomas Earl of Arundel and
Surrey, and William Lord Howard, for and in Consideration
of the sum of thirteen thousand pounds of good and lawful
Money of England, to the said Thomas Earl of Suffolk
in hand before the enfealing and delivery of these presents,
by the said Thomas Sutton well and truly satisfied, con-
tented and paid, wherof and wherewith they and every
of them acknowledge themselves fully satisfied, con-
tented**

Le Case de Sutton's Hospital. Part X.

tented and paid, and thereof and of every part and parcel thereof do clearly acquit, exonerate and discharge the said Thomas Sutton his Heirs, Executors and Administrators, and every of them for ever by these presents, have granted, aliened, bargained, sold, conveyed, and confirmed, and by these presents do for them and their Heirs fully, clearly and absolutely grant, alien, bargain, sell, convey, and confirm unto the said Thomas Sutton his Heirs and Assigns for ever, all that capital Messuage or Mansion House, commonly called or known by the Name of Howard House, otherwise called the late dissolved Charterhouse besides Smithfield, situate and being within the County of Middlesex, with all and singular the rights, members, and appurtenances thereunto belonging and appertaining, And all that Orchard and Garden with the appurtenances thereunto likewise belonging and appertaining, and all that parcel of Land and Ground with the appurtenances commonly called Parson Church-yard, And all those two Messuages or Tenements, and two Closes of Land and Ground, with the appurtenances thereunto adjoining, commonly called Welbecke, situate, lying and being in the said County of Middlesex, And also all and singular Messuages, Houses, Offices, Buildings, Barns, Stables, Dove-houses, Courts, Folds, Curtillages, Pards, Orchards, Gardens, Shops, Cellars, Cellars, Closes, Inclosures, waste Grounds, Tithes, Oblations, Obventions, Fruits, Profits, Alterages, Ways, Waters, Rents, Reversions, Services, Ways, Strays, Goods of Felons, Outlaws and Fugitives, and all other Franchises, Liberties, Privileges, Jurisdictions, Profits, Emoluments, Commodities, Hereditaments and Appurtenances whatsoever, by what name or names soever the same be called or known, to the said capital Messuage or Mansion House called Howard House, or the late dissolved Charterhouse besides Smithfield, and other the before-mentioned Premises, and to every or any of them, lying, belonging, or in any wise appertaining, or to, or with the same, every, or any of them usually held, occupied, or enjoyed, or accepted, reputed, taken, known, demised, used or letten as part, parcel or member of them, or any of them, and also the reversion and reversions, remainder and remainders whatsoever, of all and singular the premises with the appurtenances, and all rents and yearly profits whatsoever, reserved upon any demise,

mile, lease, estate or grant, demises, leases, estates or grants
 heretofore made or granted of the before mentioned premises,
 or of any part or parcel thereof: And also all the Estate, Right,
 Title, Interest, Use, Possession, Reversion, Remainder,
 Claim and Demand whatsoever, of them the said Tho. Earl
 of Suff. Theoph. Lord Howard, Tho. Earl of Arundel and
 Surry, and William Lord Howard, and of every of them, or,
 in or unto the said Capital Messuage or Mansion House com-
 monly called Toward House, or the late dissolved Charterhouse
 beside Smithfield, and other the before mentioned premises,
 or of, in or unto every or any part or parcel thereof, and fur-
 ther the said Right Honourable Tho. Earl of Suff. Theoph.
 Lord Howard, Tho. Earl of Arundel and Surry, and William
 Lord Howard for the considerations aforesaid, have granted,
 bargained, sold, and by their presents do grant, bargain and
 sell unto the said Tho. Sutton, his Heirs and Assigns for ever,
 All and every the Deeds, Covenants, Charters, Writings,
 Counterpartes of Lease and Leases, Indentures, Exemptions,
 Letters Patents, Transcripts of Fines and Recove-
 ries, Certificates, Court Rolls, Barriers, Presentments, Boun-
 daries, Carters and Pleadments whatsoever, touching or in
 any wise now concerning the said Capital Messuage or Man-
 sion House, and other the before mentioned premises, or any
 part or parcel thereof: And to have and to hold the said Capital
 Messuage or Mansion House called Toward House, or the late
 dissolved Charterhouse beside Smithfield, Houses, Build-
 ings, Gardens, Orchards, Cloys, Inclosures, Tenements and
 Hereditaments, and all other the premises before, in or by these
 presents bargained and sold or mentioned, intended and meant
 to be bargained and sold, and every part and parcel thereof,
 with the Appurtenances, unto the said Tho. Sutton, his Heirs
 and Assigns for ever, to the full, only and proper use and behoof
 of him the said Th. Sutton, his Heirs and Assigns for evermore,
 absolutely, without any manner of Condition, Redemption or
 Revocation in any wise. And the said Tho. Earl of Suffolk,
 and his Heirs, the said Capital Messuage or Mansion
 House called Toward House, or the Charterhouse, and all and
 singular other the before mentioned premises with all their
 and every of their Appurtenances, and every part and parcel
 thereof, unto the said Tho. Sutton, his Heirs and Assigns
 for ever, in manner and form aforesaid, against him the
 said Tho. Earl of Suffolk, and his Heirs, and all and every
 other person and persons lawfully claiming by, from or un-
 der him, shall and will warrant and for evermore defend by

disolvet Charterhouse beides Smithfield cum pertiis unde
 &c. inuicem, &c. fuit inde scilicet in dominico suo ut de feodo,
 Et sic inde scilicet emittit, Dominus Jacobus nunc Rex An-
 glie, postea de suo predicto tempore quo, &c. scilicet vice-
 simo secundo die Junii Anno Regni dicti Domini Regis
 nunc Anglie, &c. nono supradicto, apud Westm. pred. fecit
 quosdam Literas Patentes magno Sigillo suo Anglie sigill,
 ac Juxta predictis in evidenc ostens quarum tenor sequitur
 in hec verba.

James by the Grace of God King of England, Scotland,
 France and Ireland, Defender of the Faith, &c. To all to
 whom these presents shall come greeting, Whereas at the last
 Session of Parliament last past, one Act was made and passed,
 intituled in his to confirm and enable the creation and esta-
 blishment of an Hospital, a free Grammar School and sundry
 other goodly and charitable uses and uses, done and intended to
 be done and performed by Th. Sutton Esq; as by the same Act
 of Parliament more at large & both and may appear: And
 whereas, before the said Act, the said Th. Sutton hath pur-
 chased to him and his Heirs of our right trusty and well be-
 loved Cousin and Counsellor Thos. Earl of Sud. Lord Cham-
 berlain of our Household, a great and large Mansion House,
 commonly called the late dissolved Charterhouse beides
 Smithfield, together with divers Houses, Buildings, Courts,
 Parks, Gardens, Orchards, Cloies and other Perchmentments
 to or with the said Mansion House used or enjoyed, or re-
 puted as part, parcel, member, or belonging therunto within
 our County of Midd. which Mansion House and other the
 Premises the said Th. Sutton hath conceived to be a more fit
 and commodious House and place, to place, erect and found
 the said Hospital and free School, and other the goodly and
 charitable uses aforesaid than in Dallingbury alias Dalling-
 bury belonging in the said Co. mentioned, And to that end
 the said Thomas Sutton hath been an humble suitor unto
 us, That we would be graciously pleased to give Licence,
 Power and Authority unto him the said Thomas Sutton
 to found, erect and establish a Hospital and free School,
 and other the goodly and charitable uses by him intended,
 in the said House called the late dissolved Charterhouse be-
 sides Smithfield in the said Premises in our said County
 of Middelx. And to incorporate the Corporation of the
 same hereafter named, to be a Body Corporate and Politick;
 and to have perpetual succession for ever in Law, Died and

Name, And by such Name of Incorporation as is hereafter
 mentioned to have full authority and lawful capacity and abili-
 ty to purchase, take, hold, receive and have to them and their
 Successors for ever, Mansions, Lands, Tenements, Cithes,
 Rents, Reversions, Annuities, Pensions, Decretments,
 Goods and Chattels whatsoever as well of us, our Heirs and
 Successors, as of any other person and persons whatsoever,
 for the better Maintenance of the said Hospital, Free School
 and other the godly and charitable uses aforesaid: Know ye
 therefore, That we graciously assenting to good and charitable
 a Wish, of our princely disposition and care for the further-
 tance thereof, and of our special grace, certain knowledge
 and mere motion have given, granted and confirmed, And
 by these Presents do give, grant and confirm for us, our
 Heirs and Successors, unto the said Tho. Sutton his Heirs,
 Executors, Administrators and Assigns, and to every of them,
 full Power, Licence and Authority, at all times hereafter
 at his and their will and pleasure to place, erect, found and
 establish at or in the said House called the late dissolved Char-
 terhouse between Smithfield, and other the Premises within
 our said County of Middlesex, one Hospital, House or place
 of abiding for the feeding, sustentation and relief of poor,
 aged, maimed, naked or impotent people, As also that the
 said Tho. Sutton during his Life, and after his Death the
 Governors hereafter named, and their Successors, and the
 Rectors and Rectors of them and his and their Successors
 for ever, and the Governors thereof for the time being and
 their Successors shall have full power, licence and lawful au-
 thority at his and their wills and pleasures respectively, from
 time to time and at all times hereafter, to place therein such
 Master or Head of the said Hospital, and numbers of poor Peo-
 ple, Men and Children and such other Members and Officers
 of the said Hospital, as to him the said Tho. Sutton during his
 Life, and after his Death to the said Governors, and their suc-
 cessors, and to the Rectors and Rectors of them and to his
 and their Successors, and to the Governors thereof for the time
 being and their Successors, shall seem convenient, And further
 we, of our said special grace, certain knowledge and mere
 motion, have given, granted and confirmed, And by these
 Presents do give, grant and confirm for us, our Heirs and Suc-
 cessors, unto the said Tho. Sutton, his Heirs, Executors, Admi-
 nistrators and Assigns, and to every of them, at his and their
 wills and pleasures, full power, licence and lawful authority,

at

at all times hereafter, to place, erect, found, and establish, at or in the said House called the late dissolved Charterhouse besides the said premises, and other the premises in our said County of Middlesex, one free school for the instructing, teaching, maintaining and educating of poor Children or Scholars. And that the said Thos. Sutton during his life and after his decease the Governors hereafter named, and their Successors, and the Jurors and Justices of them, and his and their Successors for ever, and the Governors of the said Hospital for the time being, and their Successors, shall have full power, licence, and lawful authority, as his and their wills and pleasures, from time to time and at all times hereafter, to place therein such numbers of poor Children or Scholars as to him the said Thos. Sutton during his life, and after his decease to the said Governors and their Successors, and to the Jurors and Justices of them, and his and their Successors, and to the Governors of the said Hospital for the time being, and their Successors, shall seem convenient. And likewise one learned, able and sufficient person to be Schoolmaster of the said School, and one other learned, able and sufficient person to be Master thereof, to teach and instruct the said Children in Grammar. And also one learned and able person to teach and preach the Word of God to all the Inhabitants, poor People and Children, Men, Women and Children, as in the said Wille. And further, We of our said especial grace, certain knowledge and mere motion, have ordained, constituted, assigned, limited and appointed, and by these presents, for Us, our heirs and Successors to remain, constitute, assign, limit and appoint, that the said House and other the premises, shall from henceforth for ever hereafter be, remain, continue and be converted, employed, and used for an Hospital, and for the place for the abiding, dwelling, sustentation, and maintenance of such numbers of poor People, Men and Children, as the said Thomas Sutton during his life, and after his death the Governors hereafter named and their Successors and the Jurors and Justices of them, and his and their Successors, shall think meet, the Governors of the said Hospital for the time being, and their Successors, shall name, assign, limit and appoint to be kept, bestowed, paid, and to be maintained and suffered there. And for the abiding, dwelling, sustentation and relief of such numbers of poor Children, as the said Thomas Sutton during his life, and after his death the Governors hereafter named

appointed, and by their presents befor Us, Our Heirs and Suc-
 cessors, that, sometimes, again, assign, constitute, make and ap-
 point, the right Reverend Father in God, George, Archbishop-
 bishop of Canterbury, our right trusty and well beloved Coun-
 cellor, The Lord High Lord Chamberlayn of England, our
 right trusty and well beloved Counsellor, Robert
 Earl of Salisbury, Lord High Treasurer of England, John the
 first Bishop of London, Laurence Bishop of Ex., Sir Ed.
 Coke Knight, Chief Justice of the Common Pleas, Sir Tho.
 Fother Knight, one of our Justices of our Court of Common
 Pleas, Sir R. Hume Knight and Barrister, our Attorney Ge-
 neral, John Overton Dean of the Cathedral Church of
 St Paul in London, George Mountaine Dean of the Collegiate
 Church of Merton, Henry Throckmole Esq; one of the Ma-
 jors of our County of Cheshire, Geoffrey Fythingale Esq;
 Rich. Sutton Esq; John Law Esq; Tho. Brown Esq; and
 the Mayor of the Borough of King James, founded in the Char-
 terhouse within the County of Middlesex, at the humble pe-
 tition and only costs and charges of Tho. Sutton Esq; and
 such persons and persons as shall from time to time be Master
 or Masters of the said Hospital, do and during any time as
 they shall be Master and Masters thereof, to be the full and
 perfect Governors of the Lands, Possessions, Revenues and
 Goods of the Hospital of King James, founded in the Charter-
 house within the County of Middlesex, at the humble petition
 and only costs and charges of Tho. Sutton Esq; and that they
 are the Governors of them, and such as the Governors and suc-
 cessors of them shall from time to time elect and choose to make
 up the number of 16. Men and as often as any of them, or
 any of their Successors shall happen to be dead or to be removed
 from being Governors of the said Hospital, shall be incor-
 porated and have a perpetual succession for ever to such, full
 and name, that shall be one Body Politick and Corporate;
 and that the said persons and their Successors, and the suc-
 cessors and Successors of them, and the said their Successors;
 and such as shall be chosen and chosen or chosen them as
 aforesaid, shall be incorporated, named and called by the
 name of the Governors of the Lands, Possessions, Re-
 venues and Goods of the Hospital of King James, founded in
 the Charterhouse within the County of Middlesex, at the
 humble petition and only costs and charges of Thomas Sur-
 ton Esq; and them by the name of the Governors of the
 Lands

Le Case de Sutton's Hospital. Part X.

Lands, Possessions, Revenues and Goods of the Hospital of King James, founded in the Charterhouse within the County of Middlesex, at the humble petition and only costs and charges of Tho. Sutton Esq; one Body corporate and politique by that name to have perpetual succession for ever to endure, We do by these presents for Us, Our Heirs and Successors, really and fully incorporate, make, erect, ordain, name, constitute and establish, And that by the same name of the Governors of the Lands, Possessions, Revenues and Goods of the Hospital of King James, founded in the Charterhouse within the County of Middlesex, at the humble petition and only costs and charges of Th. Sutton Esq; they and their Successors, and survivors and survivor of them and his and their Successors, and the persons to be elected and chosen as aforesaid, shall for ever hereafter be incorporated, named and called, and shall by the same name have perpetual succession for ever. And that they by the same name be and shall be and continue persons able and capable in the Law from time to time, And shall by that name of incorporation have full power, authority and lawful capacity and ability to purchase, take, hold, receive, enjoy and have to them and their Successors for ever, as well Goods and Chattels, as Manors, Lands, Tenements, Rents, Reversions, Annuities and hereditaments whatsoever, as well of Us, Our Heirs and Successors, as of the said Th. Sutton his Heirs, Executors and Assigns, or any other person or persons whatsoever, And also that the said Governors for the time being, and their Successors, shall have full power and lawful authority by the aforesaid name of Governors of the Lands, Possessions, Revenues and Goods of the Hospital of King James founded in the Charterhouse within the County of Middlesex, at the humble petition and only costs and charges of Tho. Sutton Esq; to sue and to be sued, implead and to be impleaded, to answer and to be answered unto in all manner of Courts and places that now are or hereafter shall be within this our Realm or elsewhere, as well temporal as spiritual, in all manner of suits whatsoever, and of what nature and kind soever such suits or actions be or shall be, in the same and as ample manner and form to all intents, constructions, and purposes, as any other persons or person, bodies politique or corporate of this our Realm of England, being able persons in Law, may do: And furthermore we will and grant by these presents for us, our Heirs and Successors, unto the said Governors for
the

the time being and their Successors, that they and their Successors shall have and enjoy for ever a Common Seal, wherein shall be ingraven the Name and Arms of the said Thomas Sutton, whereby the same Corporation shall or may seal any manner of instrument touching the same Corporation, and the Manors, Lands, Tenements, Rents, Reversions, Annuities and Hereditaments, Goods, Chattels and other things thereunto belonging, or in any wise touching or concerning the same: Nevertheless it is our true intent and meaning, That the said Governors for the time being and their Successors, nor any of them, shall do or suffer to be done, at any time hereafter, any act or thing whereby or by means whereof any of the Manors, Lands, Tenements, Rents, Reversions, Annuities or Hereditaments of the said Incorporation, or any Estate, Interest, Possession or Property of or in the same, or any of them shall be conveyed, vested or transferred in or to any other whatsoever contrary to the true meaning hereof, other than by such Leases as are hereafter mentioned, And that in such manner and form as is hereafter expressed, and not otherwise, And that such construction shall be made upon this foundation and Incorporation, as shall be most beneficial and available for the Maintenance of the Poor, and for the repressing and avoiding of all acts and devices to be invented or put in ure contrary to the true meaning of these Presents: And therefore our Will and Pleasure is, and so for us our Heirs and Successors we do ordain, That the said Governors for the time being or their Successors or any of them, shall not make any Lease, Grant, Conveyance or Estate of any the said Manors, Lands, Tenements or Hereditaments which shall exceed the Number of one and twenty years, and that either in possession, or not above two years before the end and expiration or determination of the Estate or Estates in possession. And whereupon the accustomed yearly Rent or more by the greater part of five years next before the making of any such Lease reserved, due or payable, shall not be reserved and yearly payable during the continuance of every such Lease: And also we do ordain, grant and appoint by these Presents for us our Heirs and Successors, That so often and whensoever any one or more of the said Governors for the time being, or any other Governor or Governors that shall be chosen hereafter, shall fortune to depart

Le Case de Sutton's Hospital. Part X.

depart this Life or to be removed from his or their place of Governour or Governours, That then and so often the residue of the said Governour or Governours and their Successors, shall be, continue and remain incorporate by the same Name of the Governours of the Lands, Possessions, Revenues and Goods of the Hospital of King James, founded in the Charterhouse within the County of Middlesex, at the humble Petition and only Costs and Charges of Thomas Sutton Esquire, to all intents, constructions and purposes according to the true meaning of these Presents, as if all the said Governour and Governours had continued, And that then and so often it shall be lawful for the rest of the Governours or the greater number of them to elect, nominate, choose and appoint one or more meet person or persons, according to the true intent and meaning of these Presents, into the room and place, or rooms and places of every such Governour or Governours which shall so depart this Life, or be removed, which person and persons so nominated, elected, chosen and agreed upon by the said Governours or by the greater number of them, shall be, and shall be reputed and taken from the time of his or their election, to be from thenceforth together with the others, Governours of the said Hospital. And after this manner to proceed hereafter and as often as need shall require, And the same election to be made within two Months that any of the said Governour or Governours shall depart this Life or be removed: And that the said Thomas Sutton during his Life, And after his decease the said Governours for the time being or the more part of them, shall have full power and authority to nominate, assign and appoint, and shall and may name, assign and appoint, when and as often as he and they shall think good, such number and numbers of person and persons as he and they shall think convenient, to be Poor Men, Children and Scholars, Master, Preacher, Schoolmaster, Clerg, Members, Officer and Officers of or for the said Hospital, as he the said Thomas Sutton during his Life, and after his decease the Governours for the time being and their Successors, or the more part of them, shall think meet and convenient: Nevertheless if the Rents, Revenues, or Profits of all or any of the Houses, Lands, Tenements and Hereditaments, Goods

Goods or Chattels, at any time to be granted and conveyed to the said Governors of the said Hospital and their Successors for the Maintenance of the People in the said Hospital, shall happen to encrease or to be raised or augmented to a better or greater yearly value than formerly the same was, Or that the Rents, Revenues and Possessions of the said Hospital shall be farther increased by the determination of any former Estates in any of the said Possessions of the said Hospital, or otherwise: That all and every such increase shall be employed to the Maintenance of more and other poor People to be placed in the said Hospital, or to the further augmentation of the Allowances of those persons that for the time being shall be in the said Hospital, according to true intent and meaning of these Presents, and shall not be converted or employed to any private use: And also We do by these Presents, for Us, Our Heirs and Successors, will, grant and obtain, That whensoever and as often as any of the said Places or Rooms, of any of the said Master, Preacher, School-Master or Other, Poor Men or Children, Scholars, Members or Officers, or any of them, shall happen to become void by Death, Resignation, Deposition, or otherwise, That then and so often it shall and may be lawful for the said Thomas Sutton during his Life, and after his Death, for the said Governors for the time being, and their Successors or the most part of them, within one Month after such Avoidance, by Writing under the Seal of the said Thomas Sutton during his Life, and after his Death by the said Governors for the time being, and their Successors under their Common Seal, to nominate and appoint other meet person and persons in the rooms, place and places of them and every of them so deceasing, resigning, or otherwise becoming void: And if in case the said Governors and their Successors for the time being, or the most part of them shall not within two months after such Avoidance, nominate, assign and appoint as is aforesaid, That then and so often and in every such case, from and after the Death of the said Thomas Sutton, it shall be lawful for Us, Our Heirs and Successors, by Letters Patents under the Great Seal of England, or Privy Seal, to nominate and appoint meet person and persons to all and every such Office, Rooms, Place and Places as shall remain void for the time aforesaid,

by

Le Case de Sutton's Hospital. Part X.

by the default of the said Governours and their Successors, as is aforesaid: And we do farther, of our especial grace, certain knowledge, and meet motion, for As, Our Heirs and Successors, give and grant, That the said Master, Preacher, Schoolmaster, Clerk, Poor Men, Children, Scholars, Members and Officers of the said Hospital, and every of them, shall be allowed, ordered, directed, visited, placed or displaced by the said Thomas Sutton during his Life, and after his death by the said Governours for the time being, and their Successors, or the more part of them, according to such Allowances, Rules, Statutes and Ordinances, as shall be appointed, set forth, made, devised or established by the said Thomas Sutton during his Life, in writing under his Hand and Seal, and after his Death by the Governours for the time being, and their Successors or the more part of them under the said Common Seal: And further We have given and granted, and by these Presents do give and grant to the said Thomas Sutton full power and lawful authority during his Life, by Writing under his Hand and Seal, and to the said Governours and their Successors for the time being, or the more part of them after his decease, under the said Common Seal, to make, set down and appoint such Rules, Statutes and Ordinances, for the Rule, Government and well ordering of the said Hospital, and of the said Master, Preacher, Schoolmaster, Clerk, Poor People, Children, Scholars, Members and Officers for the time being, and for their and every of their Wages, Stipends and Allowances for and towards their or any of their Maintenance and Relief, as to the said Thomas Sutton during his Life, and after his decease to the said Governours and their Successors for the time being, or the more part of them, shall seem meet and convenient: And that the same Orders, Rules, Statutes and Ordinances so by him, them or any of them to be made, set down and prescribed as aforesaid, shall be and stand in full force and strength in Law, to all constructions, intents and purposes the same being not repugnant to Our Prerogative Royal, nor contrary to the Laws and Statutes of this our Realm of England, nor to any Ecclesiastical Canons or Constitutions of the Church of England, which then shall be in force: And that for the better Government of the said Hospital, the said Thomas Sutton during his Life, and after his

his decease the said Governours for the time being, or the most part of them, or such and so many of them as the said Thomas Sutton shall by his Writing under his Hand and Seal thereunto assign, appoint and nominate, shall and may after the decease of the said Thomas Sutton have full power and lawful authority to visit, order and punish, place or displace the Master, Preacher, School-master, Cleric, Poor People, Scholars, Members and Officers of the said Hospital, and every of them, and to order, reform and redress all and every the Disorders, Misdeemeanors, Offences and Abuses in the Persons aforesaid, and every of them, or in the said Hospital or Free-school, or in or touching the government, order and disposing of the same, and to censure, suspend, deprive and displace the said Master, Preacher, School-master, Cleric, Poor People, Scholars, Members and Officers, and all, every or any of them, as to him the said Thomas Sutton during his life, and after his death, to the said Governours for the time being, and their Successors, or the more part of them, or to such and so many of them as the said Thomas Sutton by any his writing under his Hand and Seal shall thereunto assign, nominate and appoint, shall to him or them respectively seem fit, just and convenient: So always that no Visitation, Act or Thing in or touching the same, be had, made or done by any person or persons during the life of the said Thomas Sutton, other than by the said Thomas Sutton, and after his death by the said Governours for the time being, and their Successors, or the more part of them, or by such or so many of them as the said Thomas Sutton by his writing under his Hand and Seal shall nominate and appoint thereunto: And we of our farther special Grace, certain Knowledge, and meer Motion, and by our supreme Power and Authority for As our Heirs and Successors do will, ordain and grant, that the said Hospital, and the Master, Preacher, School-master, Cleric, Members, Officers, and all other the Persons to be placed in the said Hospital, shall for ever hereafter be exempted and freed of and from all visitation, punishment and correction to be had, used or exercised in or upon them or any of them by the Ordinary of the Diocese for the time being, or by any other person or persons whatsoever, other than by the said Thomas Sutton during
E his

Le Case de Sutton's Hospital. Part X.

his life, and after his death by the said Governours for the time being, and their Successors: And farther know ye, that we for the considerations aforesaid, of our special grace, certain knowledge, and meer motion, have given and granted, and by these Presents for Us, our Heirs and Successors do give and grant to the said Governours of the Lands, Possessions, Revenues and Goods of the Hospital of King James, founded in the Charterhouse within the County of Midd, at the humble Petition, and only Costs and Charges of Tho. Sutton Esq; and to their Successors for ever, our special licence, and free and lawful liberty, power and authority to get, purchase, receive and take to them and their Successors for ever for the maintenance, sustentation, and relief of all and every the person and persons to be placed in the said Hospital, of and from the said Th. Sutton his Heirs and Assigns the said great and large Mansion-house, commonly called the Charterhouse besides Smithfield, together with the Houses, Buildings, Courts, Yards, Gardens, Orchards, Closets, and other Hereditaments lately purchased by the said Th. Sutton of the said Thomas Earl of Suffolk, And all those his Manors and Lordships of Southminster, Roston, Little Hallingbury a/s Hallingbury Bouchers, and Much Stanbridge in the County of Essex, with all their and every of their Rights, Members and Appurtenances whatsoever, and also all those his Manors and Lordships of Bussington a/s Bussington and Dunesby in the County of Lincoln, with their and every of their Rights, Members and Appurtenances whatsoever, And also all those his Manors of Salthrop a/s Salthrop a/s Salthrop, Chilton and Blackgrove in the County of Wilts, with their and every of their Rights, Members and Appurtenances, and also all those his Lands and Pasture Ground called Blackgrove, containing by estimation two hundred Acres of Pasture with the Appurtenances in Blackgrove and Wroughton in the said County of Wilts, and also all that his Manor of Millenden, otherwise called the Manors of Millenden in the Parishes of Wroughton Lydyer and Cregose in the said County of Wilts, with all his Rights, Members and Appurtenances, And all that his Manor of Elcombe and Park called Elcombe Park with the Appurtenances in the said County of Wilts, And also all that his Manor of Matlescote a/s Matlescote a/s Matlescote with the Appurtenances in the said County of Wilts, And also all that his Manor of Wescote a/s Wescote with the

the Appurtenances in the said County of Wilts, and also all those his Lands and Pastures containing by estimation one hundred acres of land, and threescore acres of pasture, with the Appurtenances in Wigglescote and Wroughton in the said County of Wilts, and all that his Manor of Wiscote with the Appurtenances in the said County of Wilts, and also all those his two Mesuages and one thousand Acres of Land, two thousand Acres of Pasture, three hundred Acres of Meadow, and three hundred Acres of Wood with the Appurtenances in Brodehinton in the said County of Wilts, And also all those the Manors and Lordships of Camps and Camps Castle, otherwise called Castle Camps with the Appurtenances, situate, lying, being and extending in the Counties of Cambridge and Essex, or in either of them, or elsewhere within the Realm of England, and also all that his Manor of Balham in the County of Cambridge, with all and singular the Rights, Members and Appurtenances, thereof whatsoever, and also all those his Mesuages and Lands situate, lying and being in the Parishes of Hackney and Tottenham in the County of Midd, or in either of them, with their fevery of their Rights, Members and Appurtenances whatsoever, which said Mesuage was lately purchased of Sir William Bowyer Knight, and the said Lands in Tottenham now are or lately were in the tenure or occupation of William Benning Peoman, and also all and singular the Manors, Lordships, Mesuages, Lands, Tenements, Reversions, Services, Meadows, Pastures, Woods, Adowsons, Patronages of Churches and Perpetuities of the said Thomas Sutton whatsoever, situate, lying or being within the said Counties of Essex, Lincoln, Wilts, Cambridge and Middlesex, or in any of them, with all and every of their Rights, Members and Appurtenances whatsoever, or any such, and so many, and such part of the said Manors, Adowsons, Lands, Tenements and Perpetuities, or of any part thereof as the said Thomas Sutton shall think meet, and also all Letters, Patents, Indentures, Deeds, Evidences, Bonds and Writings concerning the Premises, or any of them, which shall be so given, and granted by the said Thomas Sutton to the said Governors and their Successors, and all such Conditions, Warranties, Vouchers, Actions, Suits, Entries, Benefits and Demands as shall be or may be had by any Person or Persons upon or by reason of them, or any of them (except all his Manors or Lordships of Littlebury

Le Case de Sutton's Hospital. Part X.

tlebury and Haddestocke with the Appurtenances in the said County of Essex aforesaid) or in either of them, though the Premises or any of them be holden of us immediately in Chief, or by Knights Service, or otherwise howsoever, and without any Licence or Pardon for Alienation of them, or any of them, the Statute of Mortmain, or any other Act, Statute, Ordinance or Provision to the contrary in any wise notwithstanding: And also we do give and grant like Licence, Power and Authority to the said Thomas Sutton his Heirs and Assigns to give, grant and assure unto the said Governors and their Successors for the uses, intents and purposes aforesaid, all and every the said great and large Mansion-house commonly called the Chaterhouse besides Smithfield, together with the Houses, Buildings, Courts, Yards, Gardens, Orchards, Closets, and other Hereditaments lately purchased by the said Thomas Sutton of the said Thomas Earl of Suffolk, And all those his Manors and Lordships of Southminster, Norton, Little Hallingbury alias Hallingbury Bouchers, and Much Sanbidge in the said County of Essex, with all their and every of their Rights, Members and Appurtenances whatsoever, and also all those his Manors and Lordships of Buntingthorpe alias Buntingthorpe and Dunnesby in the County of Lincoln, with their and every of their Rights, Members and Appurtenances whatsoever, And also all those his Manors of Salthorp as Salthorpe as Halthorpe as Halthrop Chilton and Blackgrove in the County of Wilts, with their and every of their Rights, Members and Appurtenances, and also all those his Lands and Pasture Grounds called Blackgrove, containing by estimation two hundred Acres of Pasture with their Appurtenances in Blackgrove and Wroughton in the said County of Wilts, and also all that his Manor of Wiltenden, otherwise called the Manor of Wiltenden in the Parishes of Wroughton Lydeyard and Tregose in the said County of Wilts, with all his Rights, Members and Appurtenances, And all that his Manor of Elcombe and the Park called Elcombe Park with the Appurtenances in the said County of Wilts, And also all that his Manor of Matlescote as Wiglescote as Wiglescote with the Appurtenances in the said County of Wilts, And also all that his Manor of Wescote as Wescote with the Appurtenances in the said County of Wilts, and also all those his Lands
and

and Pastures containing by estimation one hundred Acres of Land, and threescore Acres of Pasture, with the Appurtenances in Wiglescote and Wroughton in the said County of Wilts, and all that his Manor of Wiscote with the Appurtenances in the said County of Wilts, and also all those his two Mesuages and one thousand Acres of Land, two thousand Acres of Pasture, three hundred Acres of Meadow, and three hundred Acres of Wood with the Appurtenances in Brodehinton in the said County of Wilts, And all those his Manors and Lordships of Campes alias Campes Castle, otherwile called Castle Campes with the Appurtenances, situate, lying, and being and extending in the Counties of Cambridge and Essex, or in either of them, or elsewhere within the Realm of England, and also all that his Manor of Balgham in the County of Cambridge, with all and singular the Rights, Members and Appurtenances, thereof whatsoever, and all those his Mesuages and Lands situate, lying and being in the Parishes of Hackney and Tottenham in the County of Middlesex, or in either of them, with their and either of their Rights, Members and Appurtenances whatsoever, which said Mesuage was lately purchased of Sir William Bowyer Knight, and the said Lands in Tottenham now are or lately were in the tenure or occupation of William Benning Peoman, and also all and singular the Manors, Lordships, Mesuages, Lands, Tenements, Reversions, Services, Meadows, Pastures, Woods, Advowsons, Patronages of Churches and Hereditaments of the said Thomas Sutton whatsoever, situate, lying or being within the said Counties of Essex, Lincoln, Wilts, Cambridge and Middlesex, or any of them, with all and every of their Rights, Members and Appurtenances whatsoever, or any such, and so many, and such part of the said Manors, Advowsons, Lands, Tenements and Hereditaments, or of any part thereof as the said Th. Sutton shall think meet, and also all Letters, Patents, Indentures, Deeds, Evidences, Bonds and Writings concerning the Premises, or any of them, which shall be so given, and granted by the said Thomas Sutton to the said Governors and their Successors, and all such Conditions, Warranties, Touchers, Actions, Suits, Entries, Benefits and Demands, as shall be or may be had by any Person or Persons upon

Le Cafe de Sutton's Hospital. Part X.

or by reason of them, or any of them (except all his Manors or Lordships of Littlebury and Paddestocke with the Appurtenances in the said County of Essex aforesaid) or in either of them, though the Premises or any of them be holden of us immediately in Chief, or by Knights Service, or otherwise howsoever, and without any Licence or Pardon for Alienation of them, or any of them, the Statute of Mortmain, or any other Act, Statute, Ordinance or Provision whatsoever to the contrary in any wise notwithstanding. And our farther will and pleasure is, and we do by these Presents, for Us our Heirs and Successors ordain and straitly charge and command, That whatsoever, and as often as any of the Churches, Parsonages, Vicarages, Chappels, or other Spiritual Livings, the Advowsons, Patronages or Donations whereof are hereby meant or mentioned to be licenced to be given by the said Thomas Sutton to the said Governors and their Successors for and towards the maintenance of the said godly and charitable Uses, shall happen to be void or become presentative or presentable, or to be given or collated unto, by the death, resignation or deprivation of any Incumbent or Incumbents of them or any of them, or by any other means whatsoever, that then and so often the said Governors for the time being, and their Successors, or the greater part of them for the time being, shall present, prefer and collate thereunto such meet and sufficient Persons as they shall think fit, Nevertheless our full meaning and direction in this behalf is, and so we do by these Presents for Us, our Heirs and Successors ordain and declare, that such and so many of the Scholars which shall from time to time be brought up and taught in the said Hospital, and every of them, as shall after be fully qualified and become meet to take upon them, or any of them the charge of the said Churches, Rectories, Parsonages, Vicarages, Chappels, or other Spiritual Livings aforesaid, shall as near as may be from time to time, be by the said Governors and their Successors, presented, preferred and collated thereunto before any other Person or Persons whatsoever, avoiding as much as may be the giving of more Benefices then one to any one Incumbent: And to the end that all suspicion of indirect dealing, which might hereafter be used or put in practice by the aforesaid Governors or their Successors, or any of them, contrary to the true intent and meaning of these

these Presents, may be prevented and taken away, our will and pleasure is, and we do by these Presents for Us our Heirs and Successors ordain and strictly charge and command, That the Manors, Lands, Tenements and Hereditaments, and other things which at any time hereafter shall be given, granted or conveyed for the maintenance of the said godly and charitable Uses before in these Presents mentioned, nor any part or parcel of them, or of any of them, shall at any time hereafter be by the said Governors or their Successors, or any of them leased, demised, granted, or conveyed to them the said Governors, or their Successors, or to any of them, or to any other Person and Persons whatsoever, for or to the use, benefit or behoof of the said Governors, or of their Successors, or any of them, although express mention of the clear yearly value and certainty of the Premises, or any of them, or of any other Gifts or Grants by Us, or any of our Progenitors or Predecessors to the foresaid Thomas Sutton heretofore made, is not made, or any Statute, Act, Ordinance, Provision, Proclamation or restraint to the contrary hereof had, made, ordained or provided, or any other thing, cause or matter whatsoever in any wise notwithstanding: In witness whereof we have caused these our Letters to be made Patents, witness our Self at Westminster the two and twentieth day of June in the ninth year of our Reign of England, France and Ireland, and of Scotland the xlv. prout p eisdem Litteras Patentes plenius liquet & apparet.

Et ulterius Jur' præd' dicunt super sacramentū suū præd', quod præd' Th. Sutton de omnibus & singulis præmissis præd' cum pertinentiis in forma prædicta seisiť existē, idem Thomas Sutton postea, & ante præd' tempus quo, &c. scilicet tricesimo die Octobris anno Regni Dñi Jacobi nunc Regis Angliæ nono supradicto, fecit quoddam scriptum suū sigillo suo sigillat', gereñ dat eisdem die & anno, Ac Jur' præd' in evidenc' ostens. cuidam Johanni Hutton Clerico, tenor cujus quidem scripti sequitur in hæc verba.

To all to whom these Presents shall come, Thomas Sutton of Balsam in the County of Cambridg, Esquire, sendeth grating: Whereas it hath pleased the Kings most excellent Majesty that now is, by his Highness Letters Patents bearing date at Westminster the two and twentieth day

Le Case de Sutton's Hospital. Part X.

day of June, in this present ninth year of his Highness
Reign over England, upon the humble suit of the said Th.
Sutton, to give licence, power and authority to him the said
Thomas Sutton, to place, found and erect an Hospital and Free-
School in the House called the late dissolved Charterhouse
besides Smithfield in the County of Middlesex, and like
licence, power and authority for him the said Thomas Sutton,
at any time during his life to ordain, appoint and place a
Master of the said Hospital, and that the said Hospital
should be called by the Name of the Hospital of King James,
founded in the Charterhouse within the County of Middlesex,
at the humble Petition and only Costs and Charges of Tho-
mas Sutton Esquire: And where furthermore by the said Let-
ters Patents the Master of the said Hospital for the time
being, is ordained and appointed to be one of the sixteen
Governors of the Lands, Possessions, Revenues and
Goods of the said Hospital, and that the same sixteen
Governors are by the said Letters Patents incorporate to
purchase and take lands to them and their Successors for
ever, for the maintenance of the said Hospital, by the Name
of the Governors of the Lands, Possessions, Revenues and
Goods of the Hospital of King James, founded in the Charter-
house within the County of Middlesex, at the humble Peti-
tion and only Costs and Charges of Thomas Sutton Esquire,
as by the said Letters Patents (among other things) more
at large may appear: By reason whereof, there must be a
Master made before such time as the said Thomas Sutton
can convey the Lands intended by the said Thomas Sutton to
be conveyed for the maintenance of the said Hospital unto
the said Governors, according to the said Letters Patents:
Now the said Thomas Sutton minding the performance of
the said charitable Act, hath according to the power given
him by the said Letters Patents, and by these Presents both
place, ordain, nominate, constitute and appoint his right
trusty and welbeloved John Hutton Clerk, the first and present
Master of the Hospital of King James, founded in the Charter-
house within the County of Middlesex, at the humble Peti-
tion and only Costs and Charges of Thomas Sutton Esquire,
to have and to hold the said Office, cometh and place of
Master of the said Hospital unto him the said John Hutton
from henceforth for and during the good will and pleasure
of the said Thomas Sutton: In witness whereof the said Tho-

mas

mas Sutton hath hereunto put his Hand and Seal dated the thirtieth day of October, in the ninth year of the Reign of our said Sovereign Lord James by the Grace of God King of England, France and Ireland, Defender of the Faith, &c. and of Scotland the five and fortieth.

Et ulterius Jur' præd' dicunt super sacrament' suum præd' quod præd' Thomas Sutton, de omnibus & singulis præmissis præd' cum pertinentiis in forma præd' seisit' existē, postea & ante præd' tempus quo, &c. scilicet primo die Novembris anno Regni dicti Dñi Regis nunc Angliæ, &c. nono supradict' fecit quandā Indenturā suā, inter ipsum Thomam Sutton p nomen Tho. Sutton de Balsbam in Comitatu Cantab' armigef ex una parte, & reverendissimum in Deo patrē Georgiū Dom' Archiepiscopū Cantuar' Primat' & Metropolitan' totius Angliæ, & prænobilem Thomam dom' Ellesmere Dñum Cancellar' Angliæ, prænobilem Rob' Comit' Salisbury Dñum magnum Thesaur' Angliæ, reverend' in Deo patrem Johān Dñum Episcopū London', reverend' patrem in Deo Lancelot' Dñum Episcopū Elien', Edward' Coke Milit' Dñum Capital' Just' de Corn Banco, Th. Foster Milit' unum Justic' de Corn Banco, Henricum Hobart Milit' & Baronet' Attorn' Generat' dicti Dñi Regis nunc, Johannem Overal Decanum Cathedral' Ecclesiæ Scti Pauli in London, Georgium Mountaine Decanū Collegiat' Ecclesiæ Westm' Henr' Thursby Armig' unum Magr' Cur' Cancellar', Galfrid' Nightingale Armig', Richard' Sutton Ar' Johan' Law Gen', Th. Brown Gen', & Johan' Hutton Clericum, p nomina reverendissimi in Deo patris Georgii Dñi Archiepisc Cantuar' Primat' & Metropolit' totius Angliæ, prænobilis Thomæ Dñi Ellesmere Dom' Cancell' Angliæ, prænobilis Roberti Comit' Salisbury Dñi magni Thesaur' Angliæ, reverend' in Deo patris Johannis Dñi Episcopi Lond', reverend' patris in Deo Lanceloti Dñi Episcopi Elien', Edwardi Coke Militis Dñi Capitalis Just' de communibus placitis, Thomæ Foster Militis unius Just' Cur' de communibus placitis, Henr' Hobart Milit' & Baronet' Attorn' Generat' Dñi nostri Regis, Johannis Overal Decani Cathedral' Ecclesiæ Scti Pauli in London, Georgii Mountaine Decani Collegiat' Ecclesiæ Westm', Henrici Thursby Arm' unius Magr' Cur' Cancellar', Galfridi Nightingale Arm', Richardi Sutton Arm', Johan' Law Gen', Th. Brown Gen', & Johan' Hutton Clerici Magistri Hospitalis Regis Jacobi fundat' in Charterhouse infra Comitatu Midd' ad humilē petitionē & sola custag' & onera Th. Sutton Arm' primorū & præsentium Guberna-

Le Case de Sutton's Hospital. Part X.

Gubernatorum terrarum, possessionū, reversionū, & bonorum Hospitalis Regis Jacobi fundat' in Charterhouse in Comitatu Midd' ad humilē petitionē & sola custagia & onera Th. Sutton Arm', ex altera pte fact' ac infra sex menses tunc prox' sequeñ, scilicet quarto die Nov. an' Reg' Dñi Jacobi nunc Reg' Angliæ nono supradict', in Cur' Cancell' dñi Dñi Jacobi nunc, apud Westm' præd' tunc exist', debito modo de recordo irrotulat' secund' form' statuti in hujusmodi casu edit' & provis'. Ac cujus una pars inde sigillo præd' Th. Sutton sigillat' & Jur' præd' in evidenc' ostens' fuit geren' dat' eisdem die & anno, cujus quidē Indentur' tenor sequitur in hæc verba.

This Indenture made the first day of November in the year of our Lord God one thousand six hundred and eleven, and in the years of the Reign of our Sovereign Lord James, by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c. That is to say, Of England, France and Ireland the ninth, and of Scotland the five and fortieth, between Thomas Sutton of Balham in the County of Cambridge Esquire of the one Party, and the most Reverend Father in God, George Lord Archbishop of Canterbury Primate and Metropolitane of all England, and the Right Honourable Thomas Lord Ellesmere Lord Chancellor of England, the Right Honourable Robert Earl of Salisbury Lord High Treasurer of England, the right Reverend Father in God, John Lord Bishop of London, the right Reverend Father in God Lancelot Lord Bishop of Ely, Sir Edward Coke Knight, Lord Chief Justice of the Common Pleas, Sir Thomas Foster Knight, one of the Justices of the Court of Common Pleas, Sir Henry Hobart Knight and Baronet, Attorney General of our Sovereign Lord the King, John Overal, Dean of the Cathedral Church of Saint Paul in London, George Mountain, Dean of the Collegiate Church of Westminster, Henry Thursby Esquire, one of the Masters of the Court of Chancery, Jeffery Nightingale Esquire, Richard Sutton Esq, John Law Gentleman, Thomas Brown Gentleman, and John Hutton Clerk, Master of the Hospital of King James, founded in the Charterhouse within the County of Middlesex, at the humble Petition and only Costs and Charges of Thomas Sutton Esquire, the first and present Governour of the Lands, Possessions, Revenues and Goods of the Hospital of King James founded in the Charterhouse with-

in

in the County of Middlesex at the humble Petition and only Costs and Charges of Thomas Sutton Esquire of the other part, witnesseth, That whereas it hath pleased the Kings most excellent Majesty that now is, by his Highness Letters Patents bearing date at Westminster, the two and twentieth day of June in this present ninth year of his Highness Reign over England, upon the humble suit of the said Thomas Sutton, to give licence, power and authority to him the said Thomas Sutton to place, erect, found and establish, at or in the said House called the late dissolved Charterhouse besides Smithfield within the County of Middlesex, one Hospital, House or Place of Abiding for the finding, sustentation and relief of poor, aged, maimed, needy or impotent People, as also to place, found and establish at or in the said House one Free-school for the instructing, maintenance and education of Poor Children or Scholars, and that the said Hospital should for ever afterwards be incorporated, named and called the Hospital of King James founded in the Charterhouse within the County of Middlesex at the humble Petition and only Costs and Charges of Thomas Sutton Esquire, and that he the said Thomas Sutton during his life, and after his death the said Governors and their Successors for ever, should have power, licence and authority to ordain, appoint and place therein a Master, a Preacher, a School-master and Usher, and such numbers of Poor People, Scholars and Officers as they should think meet, and in default thereof his Majesty, his Heirs and Successors; And where likewise our said Sovereign Lord the Kings Majesty, by the said Letters Patents, hath incorporated the said Lord Archbishop, Lord Chancellor, Lord Treasurer, John Bishop of London, Bishop of Ely, Sir Edward Coke Knight, Sir Thomas Foster Knight, Sir Henry Hobart Knight and Baronet, John Overal, George Mountaine, Henry Thursby, Jeffery Nightingale, Richard Sutton, John Lawe, Thomas Brown, and the Master of the said Hospital for the time being, by the name of the Governors of the Lands, Possessions, Revenues and Goods of the Hospital of King James founded in the Charterhouse within the County of Middlesex at the humble Petition and only Costs and Charges of Thomas Sutton Esquire, And moreover hath thereby granted licence, as well to the said Governors and their Successors, to have, take and purchase, as also licence and

Le Case de Sutton's Hospital. Part X.

and authority to the said Thomas Sutton his Heirs and Assigns, to give, grant and assure unto the said Governours and their Successors, for the better continuance of the said Hospital and Free-school for ever, and for the better maintenance of the Master, Preacher, School-master, Clerk, and such number of Poor People, Scholars and Officers of and in the said Hospital for ever, as shall be therein placed as is aforesaid, All and every the Mannors, Lands, Tenements, Rents, Reversions, Advowsons, and Hereditaments hereafter herein mentioned to be granted or conveyed, as in and by the said Letters Patents among other things more at large may appear, Since which said Letters Patents the said Thomas Sutton hath by his Deed or Writing under his Hand and Seal, bearing date the thirtieth day of October last, ordained and appointed the said John Hutton to be the first and present Master of the said Hospital, according to the purport, tenor, and true meaning of the said Letters Patents, And the said Thomas Sutton being minded in his life-time to perfect the said goodly and charitable Act himself, and not to leave it to be performed after his death by others. This Indenture therefore witnesseth, That the said Thomas Sutton, for and in consideration of the continuance of the said Hospital and Free-school for ever, and for the better maintenance of the said Master, Preacher, School-master, Clerk, Poor People, Scholars and Officers for ever hereafter, with the Rents, Revenues, Issues, Commodities and Profits of the Mannors, Lands, Tenements, Rents, Reversions, Advowsons and Hereditaments hereafter in these Presents mentioned to be conveyed, and for and in consideration of the Sum of five pounds of lawful Money of England, by the said Lord Archbishop, and other the Governours aforesaid paid, which said Sum of five pounds the said Thomas Sutton confesseth and acknowledgeth himself to have received of the said Governours, and thereof both acquit and discharge the said Governours for ever by these Presents, And in consideration of the yearly Rent of twelve pence of lawful Money of England hereafter in and by these Presents reserved to the said Thomas Sutton and his Heirs, And for divers other good and reasonable considerations him especially moving, hath (according to the said Licence of the Kings Majesty to him the said Thomas Sutton in that behalf given)

given

2 Inst. 725.
Apres 34. a.
2 Rol. 787, 788.

given, bargained, sold, granted, confirmed and conveyed, and by these presents doth for him and his heirs, bargain, sell, give, grant, confirm and convey unto the said Governours of the Lands, Possessions, Revenues and Goods of the Hospital of King James, founded in the Charterhouse within the County of Middlesex, at the humble Petition and only Costs and Charges of Thomas Sutton Esq; and to their Successors for ever, All that the Mansion House, commonly called the Charterhouse besides Smithfield in the said County of Middlesex, And all and singular Messuages, Houses, Courts, Pards, Gardens, Orchards, Closets, and other Hereditaments within the County of Middlesex, lately purchased by the said Thomas Sutton of the Right Honourable Thomas Earl of Suffolk, And all those his Manors and Lordships of Southminster, Roxton, Little Hallingbury, alias Hallingbury Bouchers, and Much Stanbridge in the County of Essex, with all their and every of their Rights, Members and Appurtenances whatsoever, and also all those his Manors and Lordships of Buntingthorp alias Buntingthorp, and Dunnesby in the County of Lincoln, with their and every of their Rights, Members and Appurtenances whatsoever, And also all those his Manors of Salthorp, alias Salthrope, alias Saltherope, alias Salthrop, Chilton, Black Grove, Affcot, Hissenden, alias Hilsunden, Watlescote, alias Wigglescote, alias Wiglescete, Wilescote, alias Wescete, and Elcombe in the County of Wilts, with their and every of their Rights, Members, and Appurtenances, and also all that his Park called Elcombe Park in Elcombe in the said County of Wilts, with its Rights, Members and Appurtenances, and all those his Lands and Pasture Grounds, called Blackgrove containing by estimation two hundred Acres of Pasture, with their Appurtenances in Blackgrove and Wroughton in the said County of Wilts; and also all those Lands and Pastures containing by estimation one hundred Acres of Land, and sixty Acres of Pasture, with the Appurtenances in Wiglescote and Wroughton in the said County of Wilts, And also all those his two Messuages and one thousand Acres of Land, two thousand Acres of Pasture, three hundred Acres of Meadow, and three hundred Acres of Wood, with the Appurtenances in Broadhinton, in the said County of Wilts, And all those his Manors and Lordships of Campes, alias Campes Castle, otherwise called Castle Campes, with the Appurtenances, situate,
D lying

Le Case de Sutton's Hospital. Part X.

lyng and extending into the Counties of Cambridge and Essex, or in either of them, or elsewhere within the Realm of England, and also all that his Manor of Baltham in the County of Cambridge with all and singular the Rights, Members and Appurtenances thereof whatsoever, And all those his Mesuages and Lands, situate, lyng and being in the Parishes of Hackney and Tottenham in the County of Middlesex, or in either of them, with their and either of their Rights, Members and Appurtenances thereof whatsoever, which said last mentioned Mesuage was lately purchased of Sir William Bowyer Knight, and the said Lands in Tottenham now are, or late were in the Tenure or Occupation of William Benning Peoman, And also all and singular the Manors, Lordships, Mesuages, Lands, Tenements, Rents, Reversions, Services, Meadows, Pastures, Woods, Advowsons, Patronages of Churches, Liberties, Priviledges, Franchises, and other Pereditaments whatsoever of the said Thomas Sutton, situate, lyng or being, or to be had, taken, or enjoyed within the said Counties of Essex, Lincoln, Wilts, Cambridge and Middlesex, or in any of them, with all and every their Rights, Members and Appurtenances whatsoever, and also all Letters Patents, Indentures, Deeds, Charters, Extents, Court Rolls, and other Writings, Minuties, and Evidences whatsoever, concerning the Premises, or any of them, or any part or parcel of them or any of them, Except and always excepted out of these presents, the Manors or Lordships of Littlebury and Paddestock, with the Appurtenances in the said County of Essex, and all and singular Mesuages, Lands, Tenements, Liberties, Priviledges, Franchises, and Pereditaments, part, parcel, or Member, or accepted, reputed or taken as part, parcel or Member of the said Manors of Littlebury and Paddestock, or of either of them, or to the said Manors of Littlebury and Paddestock, or either of them belonging or appertaining, To have and to hold the said Mansion House, called the Charterhouse besides Smithfield and all and every the said Manors, Lordships, Mesuages, Parks, Lands, Tenements, Rents, Reversions, Services, Advowsons, Liberties, Franchises, Priviledges and Pereditaments, and all other the Premises, with their and every of their Rights, Members and Appurtenances (except before excepted) unto the said Governors of the Lands, Possessions, Revenues, and

and Goods of the Hospital of King James founded in the Charterhouse within the County of Middlesex at the humble Petition and only Costs and Charges of Thomas Sutton Esquire, and their Successors for ever, upon special trust and confidence that all and singular the Rents, Issues, Revenues, Commodities, and Profits of all and singular the said Manors, Houses, Lands, Tenements, Hereditaments, and other the Premises, with their Appurtenances, shall be for ever hereafter from time to time truly, faithfully, and wholly distributed, converted, and employed by the said Governors and their Successors, to and for the maintenance and continuance of the said Hospital and Free School, and of the said Master, Preacher, Schoolmaster, Usher, poor People, Scholars and Officers of and in the said Hospital and Free School for the time being, at all times hereafter, and from time to time for ever, according to the true intent, purport and meaning of the said Thomas Sutton, and according to the tenor and purport of the said Letters Patents and of these presents, and to none other Trust, Use, Confidence, Intent, Purpose, or Imployment whatsoever, Yielding and paying therefore yearly unto the said Thomas Sutton and his Heirs, the yearly Rent of twelve pence, at the feast of the Nativity of Saint John Baptist yearly to be paid, And when and as often as the said yearly Rent of twelve pence shall be behind and unpaid at any feast whereon the same ought to be paid, That then and so often it shall be lawful for the said Thomas Sutton and his Heirs into the Premises and into every or any part or parcel thereof to enter and distrain, and the distress and distresses there taken to take, lead, and carry away, and with him and them to detain, until he and they be satisfied of the said Rent and the Arrearages thereof, if any be: In witness whereof the Parties first above named to these present Indentures interchangeably have set their Hands and Seals, Given the day and year first above written.

Et ulterius Juratores præd. dicunt super sacramentum suum præd. quod præd. Thomas Sutton de præd. præmissis cum pertin. in Corn Midd. ut præfertur seisiit existens idem Tho. Sutton post præd. Indenturæ, barganiam & venditionem

Le Case de Sutton's Hospital. Part X.

de præmissis prædictis cum pertinentiis unde &c. p prædictum Thomam Comitem Suffolk, præfat Thom Sutton fact', Ac post. præd. irrotulament ejusdem Indentur, Et ante literas patentes præd. p præfatum Dñm Regem nunc ut præfert fact', & ante præd. Indentur fact' inter præd. Thomam Sutton ex una parte, & præd. Georgium Archiepiscopum Cantuar Primat & Metropolitan totius Angl, & al de altera parte, generat primo die Novēb. Anno Regni dicti Dom Regis nunc nono suprad apponet' quendam Richardum Bird fore Janitor, Anglice to be Porter, p Mesuag voc The late dissolved Charterhouse besides Smithfield, præd. Tho. Sutton, qui quidem Richardus Bird continuavit Janitor ejusdē Mesuag post indent illā fact' inter præd. Tho. Sutton ex una parte & præd. Georg Archiep'm Cantuar & al ex altera parte generat dat p'd. primo die Novēb. Anñ Reg Dom Regis nunc nono suprad, usq; mortem præd. Tho. Sutton : Et ulter Jus præd. dicūt sup sacm suū p'd quod p'd. Tho. Sutton postea & ante p'd. tempus quo &c. scilicet, secundo die Novēb. Anñ Dñi millesimo sexcentesimo undecimo, condidit testament & ultimā voluntat sua in script inter alia put sequitur in hæc verba. And my will and meaning is, That unless the said Sir Francis Popham and the said Lady Ann his Wife, do or shall give to mine Executor or Executors a general Acquittance or Release to the effect above mentioned, That then as well the said Legacy of two thousand Marks so willed to be given to the said Sir Francis Popham and the Lady Ann his Wife, As also the other several Legacies given and bequeathed to every of the said Children of the said Sir Francis Popham and the Lady his Wife, shall remain and be to the use of mine Executor or Executors, to be wholly disposed and given by them, within one whole year after my decease, partly to the mending of the Highways, and partly to poor Widows Marriages, and partly to the Releasing of poor Men that lye in Prison for Debt, and partly to the poor People of my intended Hospital, when it shall please God it shall be Established and Erected : Also I give for and towards the Building of mine intended Hospital, Chappel and Schoolhouse, the Sum of five thousand Pounds : Item, I give into the Treasury or Storehouse of my intended Hospital, to begin their Stock with, and to defend the Rights of the House, one thousand Pounds of lawful English Money : And I give to every one of my feoffees whom I have put in Trust about my intended

tended Hospital, to whom I have not given any thing in this my last Will, the sum of twenty six pounds thirteen shillings and four pence, of lawful Money of England, prout per eadem testamentum & ultimam voluntatem plenius apparet. Et ulterius Jus predicti dicunt super sacramentum suum predictum, Quod predictus Thomas Sutton, postea & ante predictum tempus quo, &c. scilicet, duodecim die Decembris, Anno Regni dicti Domini Regis nunc nono apud Hackney in Comitatu Middlesex' obiit sine exitu de corpore suo legitime precreato, Et quod predictus Simon Baxter modo querens est & tempore mortis predicti Tho. Sutton fuit consanguineus & proximus haeres predicti Tho. Sutton, videlicet, filius & haeres Dorotheae solius sororis predicti Thom. Sutton: Et ulterius Juratores predicti dicunt super sacramentum suum predictum, Quod predicti Richardus Sutton & Johannes Law postea & ante predictum tempus quo, &c. Clamant ut duo Gubernatores Terrarum, Possessionum, Reventionum, & Bonorum Hospitalis Regis Jacobi, fundat' in Charterhouse infra Comitatum Middlesex ad humilem petitionem & sola custag' & onera Thomae Sutton Armigef, in nominibus & ad usum illos qui nominantur Gubernatores, ut predict' in omnia & singula praemissa predicta cum pertinentiis voc', *The late dissolved Charterhouse besides Smithfield*, unde, &c. intraver' & fuer' inde seisis, prout lex postulat, super quos quidem Richardi Sutton & Johannis Law possessionem inde, postea & ante predictum tempus quo, &c. predictus Simon Baxter in eadem praemissa cum pertinentiis, unde, &c. intravit & fuit inde seisis put Lex postulat, super cujus quidem Simonis Baxter possessionem inde praedicti Richardi Sutton & Johannes Law predicto tempore quo, &c. in praemissa predicta cum pertinentiis unde, &c. Clamant ut duo Gubernatores Terrarum, Possessionum, Reventionum, & Bonorum Hospitalis Regis Jacobi, fundat' in Charterhouse infra comitatum Middlesex, ad humilem petitionem & sola custag' & onera Thomae Sutton Armigef, & in nominibus & ad usum illi qui nominant Gubernatores, ut praedicitur, reintraver', prout praed. Simon Baxter superius versus eos queritur: Et ulterius Juratores praedicti dicunt super sacramentum suum praed. Quod praedicti Richardus Sutton & Johannes Law in praed. Actu Parliamenti de Anno septimo Jacobi Regis supra, & in praedictis Literis Patentibus dicti Domini Regis, & in praedict' indentur' barganiz & venditionis fact' inter praedict. Thomam Sutton ex una parte, & praed. Georgium Archiepiscopum,

Le Case de Sutton's Hospital. Part X.

pum Cantuariæ & al ex altera parte, geren. dat primo die Novembris. Anno regni dicti Dñi Regis nunc nono suprad. nominat, & p̄d Richard. Sutton & Johannes Law modo defendunt sunt unæ & eadem p̄sonæ, & non aliæ neque diversæ, Et quod præd. Thomas Dñs Ellesmere, Rob. Cōes Salisbury, Reverend. in Deo Pater Lancelot Episcopus Elien, Tho. Foster, Hen. Hobart, Johannes Overal, Hen. Thursby, Galfridus Nightingale, Richardus Sutton, Johannes Law, & Tho. Brown in prædicto actu Parlamenti de añ septim supradicto nominat, Ac in prædictis literis patentib. Domini Regis, & in p̄dicta Indentura barganiæ & venditionis fact, Georgio Archiepiscopo Cantuariæ, & al, sunt unæ & eadem p̄sonæ, & non al neque divers. Et p̄d. Reverendus Pat in Deo Georg Archiepiscopus Cantuariensis, Thomas Dominus Ellesmere, Robertus Comes Salisburie, Johannes Episcopus Lond, Lancelot Episcopus Eliensis, Edward. Coke, Tho. Foster, Henricus Hobart, Johannes Overal, Georg Mountaine, Henricus Thursby, Galfridus Nightingale, Richard. Sutton, Johannes Law, & Tho. Brown, in p̄dictis Literis patentibus p̄dicti Domini Regis mentionat, & in p̄dicta Indentura barganiæ & venditionis fact int p̄dictum Thomam Sutton ex una parte, & p̄dict Reverendum Patrem in Deo, Georgium Archiepiscopum Cantuariæ, Thomam Dñum Ellesmere, Robertum Comitem Salisburie, Johannem Episcopum Londinens. Lancelot Episcopum Eliensem, Edwardum Coke, Thomam Foster, Henricum Hobart, Johannem Overal, Georgium Mountaine, Henricum Thursby, Galfridum Nightingale, Richardum Sutton, Johannem Law, Thomam Brown, & Johannem Hutton ex altera parte sunt unæ & eadem p̄sonæ, & non al nec divers. Et quod omnia maneria, terræ, tenementa, & hæredit. in prædicto Actu Parlamenti de añ sept supradicto, & in prædictis Literis Patentibus per præd. Dñum Regem pfato Thomæ Sutton concess. Et in p̄dicta Indentura barganiæ venditionis fact inter prædictum Thomam Sutton, & præfatum Georgium Archiepiscopum Cantuariæ & alios (excepti terf, tenement & hæreditament, vocat *The late dissolved Charterhouse besides Smithfield*, perquisit de p̄d. Thom. Comite Suffolk) mentionat sunt una & eadem maner, terf, tenement, & hæreditament, & non al nec divers. Et qd præd. terf tenement, & hæreditament, vocat, *The late dissolved Charterhouse besides Smithfield*, in p̄d. Indentura bargan. & venditionis fact inter p̄d. Thomam Sutton, & pfatum Thomam Comitem Suffolk, & al ges dat nono die Maij, Anno

Anno Regni dicti Domini Regis nunc nono supradicto, & in predictis literis patentibus predicti Domini Regis Thomæ Sutton confecti, Et in predicta Indentura barganiæ & venditionis inter predictum Thomam Sutton & prefatum Archiepiscopum Cantuariæ, & alii similiter mentionati, unde, &c. sunt una & eadem terra, tenementum, & hereditamentum, & non alii neque diversi. Et quod predictus Thom. Sutton in predicto Actu Parlamenti de Anno Septimo supradicto nominatus, & in predicti scripti predicto Johanni Hutton facti, & in omnibus aliis conveyanciis, scriptis, & literis patentibus predicti nominatus, est una & eadem persona & non alii neque diversi. Et quod predictus Georgius Mountaine tempore consecrationis predictarum Literarum patentium predicti Domini Regis fuit & nunc est Decanus Ecclesiæ Collegiæ Westmonasterij, Et quod predictus Georgius Mauntaine in predictis Literis patentibus predicti Domini Regis nominatus, Et predictus Georgius Mountaine in predicta Indentura barganiæ & venditionis per prefatum Thomam Sutton predicti Georgio Archiepiscopo Cantuariæ, & alii ut præfertur confecti nominatus, est una & eadem persona, & non alii, neque diversi. Et quod predictus Johannes Hutton in predicti scripti nominatus, & in predicta Indentura barganiæ & venditionis predicti Thomæ Sutton nominatus, est una & eadem persona, & non alii neque diversi. Sed utrum super tota materia predicti per Iuræ predicti in forma predicta comperit predicti Richardus Sutton & Johannes Law sunt culpabiles de transgressi. predicti necne, iidem Iuræ penitus ignoscunt, Et post inde advisamentum Curie hic, &c. Et si super tota materia predicti, per Iuræ prædicti in forma prædicta comperit videbitur Curie hic quod prædicti Richardus Sutton & Johannes Law sunt culpabiles de transgressi. prædicti. tunc iidem Iuræ dicunt super sacramentum suum prædicti. quod prædicti Richardus Sutton & Johannes Law sunt culpabiles de transgressi prædicti. put prædicti Simon Baxter superius versus eos inde querit, Et tunc assidunt dampna ipsius Simonis Baxter occasione transgressi illi ultra missi. & custagii sua per ipsum circa sectam suam in hac parte appositæ ad unum denarium, & pro missi. & custagii illi ad duodecim denarios, Et si super tota materia predicti per Iuræ prædicti in forma predicti. comperit videbitur Curie hic quod predicti Richardus Sutton & Johannes Law non sunt culpabiles de transgressi prædicti. tunc iidem Iuræ dicunt super sacramentum suum prædicti. quod prædicti Richardus Sutton & Johannes Law non sunt inde culpabiles, put iidem Richardus Sutton & Johannes Law superius per se allegaverunt. Et quia Curia Domini Regis hic de iudicio suo de & super permissi, reddendæ nondum advisati, dies inde datæ

Le Case de Sutton's Hospital. Part X.

dat est partibus quod cor Domi Rege apud Westm usq; diem Mercurii. p. post quinden Pasche de iudic suo de & super premissis audiend eo quod Cui Domi Regis hic inde nondum, &c. Ad quem diem cor Domi Rege apud Westm veni ptes pzed. per Attorn suos pzed. Et quia Cui Domi Regis hic de iudicio suo de & super premissis reddend nondum advisat, dies inde ulter dat est ptribus pzed. cor Domi Rege apud Westm usque diem veneri p. post. Crastin Sanct. Trin de iudic suo inde audiend, eo quod Cui dicti Domi Regis hic inde nondum, &c. Sup quo vis. & per Cui dicti Domi Regis nunc hic plenius intellectis omnibus singulis premissis, maturaq; deliberatione inde habita, pro eo quod videt Cui Domi Regis nunc hic super tota materia pzed. super in forma pzed. comperta, quod pzed. Richard Sutton & Johannes Law non sunt culpabiles de transg pzed. put iidem Richard Sutton & Johannes Law superius pro se allegaves, cons. est quod pzedict. Simon Baxter nihil inde capiat per billam suam pzed. Sed pro falso clam suo inde sit in misericordia, Et pzed. Richard Sutton & Johannes Law eant inde sine die, &c. Et ulter cons. est, Quod pzed. Richard Sutton & Johannes Law recuperet vers. pzedict Simon Baxter viginti quat libris pro mis. & custas suis per ipsos circa defens. suum in hac pte sustens, eidem Richardo Sutton & Johanni Law ex essensu suo per Cui dicti Domi Regis nunc hic juxta form stat in hujusmodi casu inde nuper edit & provis. adjudicat, Et pzed. Richard Sutton & Johannes Law habeant inde executionem.

Le CASE

DE

Sutton's Hospital.

MIch. 10. Jac. Rot. 574. en Bank le Roy inter St. mon Baxter Pl & Rich. Sutton & John Latwe Def. in trñs quare domum & clausum fregit 30 Maii 10. Jac. in un capital mese vocaf le Charterhouse in le Parish de Saint Sepulchre in le Countie de Midd, sur rien culps plead tout le dit special matter fuit trove : que fuit advorn hors del Court del Bank le Roy per les Judges de mesme le Court en leschequer Chamber ; & fuit argue al barre par le Pl per John Walter del Inner Temple, Yelverton de Gales Inne, & darreinement per Bacon Soliciter General, Et del part del Def. per Coventrie del Inner Temple, Hutton Serjeant del ley, & per Hobart Attorny General. Et le Counsel del Pl arguont fortment in general, 1. que la ne fuit aucun incorporation createe per les Letters Patents le Roy port date 22 Junii Anno 9 Reg. Jacobi 2. Admittant que le incorporation fuit bone uncoze ne fuit aucun foundation fait per Sutton solong lauthorite a luy donee. 3. Que le bargain & sale fait p Sutton port date 1 Novemb. Anno 9 Jac. fuit tout ousterint void & per consequence tous les dits possessions descendible al Pl in particular. Et in le argumēt de cest case, ceux points sur ceux grounds fuef move. ¶ 1. Fuit object que per l'act de Parliament 9 Februaire An. 7 Reg. Jacobi in le record mention, un Hospital fuit loyamment erect & incorporate al Halligbury in le Countie de Essex, & tous les dits Manors dones a ceo, & per consequence le dit corporation fait apres le dit act,

Jenk. Cent. 272.

2 Bulstr. 146.

1. Objection.
Après 24. b.

Le Case de Sutton's Hospital. Part X.

act, per les Letters Patents le Roy 22 Junii Anno 9 Regis Jacobi fuit ousterment void. Nota Lector, le dit act ne poit doner le dit mese appel le Charterhouse, car Sutton purchase ceo apres cessascavoire, 9 Maii Anno 9 Regis Jacob. come per le record appiert.

2. *Objection.*
Après 25. b.

¶ 2. Que nul Hospital fuit foundue per Sutton, & per ceo le incorporation fault, pur ceo que Sutton ad licence del Roy a founder, erecter & establish un Hospital, le quel fuit act precedent desre perforce per Sutton devant le incorporation, le quel il n'ad fait, & issint il n'ad pursue son Licence, le quel Licence le Roy puit aver countermaund, & que fuit countermaund en ley per le mort de Sutton.

3. *Objection.*
Après 28. b.

¶ 3. Que le Roy per son Chartre ne poit nosmer le meason & inheritance de Sutton desre un Hospital, car ceo sert a doner nosme dun Hospital in alieno solo.

4. *Objection.*
Après 29. a.

¶ 4. Le lieu de chescun corporation doit estre certain, car sans lieu certain ne poit estre aucun incorporation: mes icy le licence a Sutton est a founder Hospital at or in the Charterhouse, issint que il poit founder ceo in tout ou aucun part de mesme le mese, & pur ceo tanque Sutton ad t foundue in certain la nest aucun certaintie del lieu, & per consequence nul corporation. A ceo fuit adde, q lieu per un nosme conus nest pas sufficient a supporter le nosme dun incorporation, mes doit estre describe per metes & bounds, & diverse presidents cite & monstre ou le scite des Hospitals, Priories, &c. fuef issint particulièrement describe.

5. *Objection.*
Après 31. a.

¶ 5. Le Roy per les Letters Patents intend afaire incorporation maintenant, & issint les parolr expressement import, cessascavoire, from henceforth, &c. & uncore nul corporation poit estre tanque Sutton ad nosme un Haister, & les Letters Patents portant date 22 Junii Anno 9. & lescript de nomination 30 Octobris Anno 9. & issint les Letters Patents repugnant en eux m & void.

6. *Objection.*
Après 32. a.

¶ 6. Tanque soit actuel Hospital & pources en ces la ne poient estre gouvernoys de eux, car gouvernoys ne doient estre idle ou come cyphers in algorithme, car gouvernoys & government sont relativa, quæ sunt simul tempore; & cibien en son volunt come in auters instrumts il ad appel ceo plusoz soit son intended Hospital.

7. *Objection.*
Après 33. a.

¶ 7. A chescun tiel corporation un foundation est requisite, & icy nest aucun foundation fait per Sutton: Car pñmment il cobient daver per verba præscripta & in terminis terminantibus

aver found, erect & establie le dit mese de Charterhouse un Hospital, &c. Et ceo fust resemble all cases de Eschaunge Frankalmoigne, dedi, warantizo, Frankmarriage, quæ sunt verba legalia & incompatibilia &c. Et divers presidents fuerot monstre aux Justices de erection des Hospitals, Scholes, &c. en queux les dits parolz de fundo, erigo, &c. fust use.

4 Co. 39. b.

2. Devant tiel loyal foundation fait per Sutton un estrange ne puit aver doñ aucun tref ou aut chose aux dits gouvernoys, 3. Sans tiel foundation en temps a venir ne serra conus que serra founder, sur que confusion ensuera.

Apres 28. a. 30. a. 33. b.

¶ 8. Le nomination del Passer fait per Sutton est void pur 2 causes, lun que il fust nominate destre Passer forsq a volunt, ou il doit estre nominate p vie, entant que il avera franktenement en les terres. Aux la cobient estre al meines un actuel Hospital foundue per Sutton solong son licence, devant que il puit nominate un Passer de ceo, car auterment serra un Mathematical ou Atopical Hospital.

8. Objection. Apres 34. a.

¶ 9. Le dit Bargain & sale fait per Sutton aux dits gouvernoys fust void pur 3 causes: 1. Que les deniers, q fust le consideration de ceo, fueront pay p les private persons des gouvernoys, & pur ceo le bargain & sale des Manors, &c. ne poet entree a eux en leur politick capacite: 2. Le Habendum est aux governors sur trust & confidence, & corps politike aggregate de plusors ne poet estoier seisi de trust ou confidence, ou all oeps dun aut: 3. Pur ceo que nul Hospital fust foundue per Sutton solong son licence, & pur tous les autres objections faits encounter le foundation & incorporation le dit bargain & sale fust void, & per consequence tous les dits Manors descendue al Plaintiff come cousin & heire al Sutton.

9. Objection. Apres 34. a. 1 Co. 24. a. 26. a.

¶ 10. Que nul Hospital fust incorporate per les dits Letters Patents, & pur ceo fust object, que le Roy ne puit incorporate eux per le nosme des gouvernoys, &c. del Hospital, mes dun Hospital en ley ou dun legal Hospital, come fust terme, car les gouvernoys ne poient plead que ils sont seisie in jure Hospitalis sui, pur ceo que en ley la ne fust aucun Hospital.

10. Objection. Apres 34. a.

¶ Quel summary report jeo aye fait de ceux objections, pur ceo que jeo pense eux, ou al meines le greinder part de eux, ne fueront digne deest moie al Barre, ne remeber al Bench, & que cest case fust adjoine in leschequer Chamber per les Justices.

9

Le Case de Sutton's Hospital. Part X.

*Les Judges queux
arguent in le Case.*

Après 34. 2.

Maximè,

Viscera causa.

*Le 1 Part del char-
tre le Roy.
Respon al 1 Ob-
jection.
Devant 23 a.*

Justices del Bank le Roy plus pur le pondeur del balue que pur le difficultie del ley en le case. Et l'entier Record come appiert devant per les exceptions, doit estre le case, le quel fuit overtint argue en l'eschequer Chamber per tous les Justices Dengliser & Barons del Eschequer (savant le Chief Justice del Bank le Roy que adonques fuit malade) cestascavoire, Sir Robert Houghton, Sir Augustine Nicholls, Sir John Dodderidge, Sir Humfrey Winch, Sir Edward Bromley, Sir John Croke, Sir James Altham, Sir George Snigge, Sir Peter Warburton, Sir Laurence Tanfield Chief Baron, & Sir Edward Coke Chief Justice del Bank; & fuit resolve per eux tous en leur arguments (savant p Baron Snigge, & Justice Croke) que judgement serra done envers le Plaintife. Et quia rectum est Index sui & obliqui, un doit l'ine fait discovry non solement de ceo q est droit mes de ceo q est tort & courbe, & le confirmation del droit & veritie est confutation de error & fauxtie, jeo voille reporter l'effect des raisons & causes affirmant & confirmant les Resolutions des Judges, queux sont de cy graund authorite, perspicuitie, & gravite, que ne besoigne que les objections averont aucun particular ris: & uncoze pur le satisfaction de tous, chescun de eux serra particularment rfide. Et pur ceo que cest case principalement deped sur les Letters Patents, & le mellor exposition del chartre le Roy, est sur le consideration de tout le chartre a expounder le chfe per le chartre mesm, verba cartæ regię æquè portant suā expositionem, & les Letters Patents le Roy in cest case sont viscera causæ, & expositio quæ ex visceribus causæ nascitur est aptissima & fortissima in lege, tous les parts del Letters Patents fuerot consider, & chescun material part de l'explane selonq le voier & genuine sence, q est le mieur methode, sur consideration de mults auters, pur le plus clere report de cē case.

Le p̄mier part del dit chfe contain un b̄ief recital de 2 choses: 1. Del Title del dit Act de 9 Februarii Anno 9. cestascavoire, An Act to confirm and enable the erection and establishment of an Hospital and Free Grammar School, done and intended to be done by Tho. Sutton Esq; quel title prouve, q nul Hospital, &c. fuit foundue per l'act mesme, mes le scope del Act fuit a enabler Sutton de erecter & establir un Hospital, &c. & pur ceo le title dit intended to be done and performed by Tho. Sutton Esq; Et ceo appiert aury per divers parts del corps del Act queux tous sont in futuro, & nihil in presenti.

1. Be it therefore enacted, That in the Town of Halingbury, &c. there may be builded one meet House for abiding of Poor People and Scholars, &c. *Qux sont poiz de futuro, & nē cētain en qī pt del ville le mese terra edifie, &c.* 2. And that the same shall and may be called and named the Hospital of King James: *Queux sont poiz auxy de futuro:* 3. And that the Lord Archbishop of Canterbury, &c. shall and may be the Governors, &c. 4. And that the same Governors, &c. shall for ever hereafter stand and be incorporated: *Queux parols doient estre intend a pnder effect aps le creatiō del Hospital, &c. en certain lieu, &c. & issint le constructiō est in futuro;* qī bien appiert p les parols de futuro ensuant, and may have perpetual Succession. 5. And may for ever hereafter have; hold and enjoy Lordships, Manors, &c. without Licence of Alienation, or Licence of Mortmain: p q appiert q cē clause nest in effect forsq un licence a doner manors, terres, &c. tenus in capite sans aut licence de Alienation, & auxy sans auter licence de Mortmain. Mes cest clause fuit superfluous & impertinent si la terre passera p lact mesme, Car donqs nul licence in ceux cales fuit requisite: Et sans question si fuit admit q la fuit un corporat, uncore nul terre est done a t p ceux parols de futuro. Auxy, comt q les dits terres fueront done a eux, uncore le Roy p les Ltes Patents poiet erect & incorporat un Hospital en le Charterhouse q fuit purchase aps lact, & lactiō de trfis en le case al barre est p trespass fait en le Charterhouse. Mes fuit resolve p. tous les Justices & Barons del Eschequer (savant Justice Croke) q lact de 9 Jac. ne incorporat les govnors, &c. forsq in futuro, q ne unq pnt ne oze poit pnder effect, & per consequence nul terre fuit ou puit estre done a ceo.

Le 2. branch del recital est del purchase del Charterhouse puis lact; le qī come la est rehearse est plus fit & comodious que Halingbury destre convert en un Hospital. *La 2 branch del Charter.*

In le second part Sutton est un sutor & petitioner al Roy p quatre choses: 1. To give Licence to found, erect and establish an Hospital-house, &c. and free Grammar-school, &c. at or in the Charter-house: en q ad estre observe le incertainty del suit, cessascavoir, at or in the Charter-house, mes de ceo en aps: 2. To incorporate the Governors hereafter named; issint q Sutton mesme nosme les governors qux le Roy incorporate: 3. By such Name of Incorporation

Le Case de Sutton's Hospital. Part X.

Le 3 part del Chartre. Le divisim del Chartre.

as is hereafter mentioned to have capacity and ability, &c. p
 q appiert auxy q Sutton devise & scribe le nomme del incor-
 porat. Et p tous ceus trois clauses appiert q le suit de Sut-
 ton & s'expresse cōsent fait q les go'v'ns frēt nomme del dit
 mese appei le Chartrehouse. 4. Sutton suit lutoz that the
 Governors, &c. might take in Mortmain for the better mainte-
 nance of the said Hospital, Free-school, Preacher, &c. Le 3 pt
 des Let's Patents cōtein grants & acts faits p le Roy in 2
 manners, s. p voy de licence, & p voy de grant: des licences
 ascūs sont requis, ascūs abundant & nient requis, & ascūs re-
 quisit p le sustentatiō des pources, &c. & nemy al essence del
 corporat: & des grants, ascūs sont in presenti, & ascūs in
 futuro; & de chescun de eux ascūs sont de necessity, & ascūs
 explanatory & nient de necessity: & ceux q sont de necessity,
 ascūs sont de necessity al creatiō de cest corps politiq, &
 ascūs al cōtinuance & p'servatiō de l. Et en ceux branches
 tous les dits l'es patents sont divise; qur serra observe
 come ils surdōt & ount lieu en si les l'es patents: mes de-
 vant tous les licences & grants, le Roy p'sir un pamble, s.
 The King affecting so good a Work of his princely disposition
 and care for the fartherance thereof, and that the same may take
 the better effect, &c. (in q appiert le honour, charity & pious
 dispositiō del Roy) giveth licence to Th. Sutton, his Heirs, Execu-
 tors, Administrators and Assigns at all times hereafter, at their
 will and pleasure, to place, erect, found and establish, at or in the
 said House, called the Charter-house, one Hospital, House and
 Place of Abiding for the finding, sustentation, and relief of
 poor, aged, maimed, needy or impotent People, &c. Also to erect,
 found, &c. one Free-school for the instruction, teaching and
 maintenance of poor Children or Scholars, &c. and to place
 and maintain a learned School-master and Usher to teach and
 instruct the said Children in Grammar. And also one learned
 and godly Preacher to preach and teach the Word of God to
 all the said Persons, Poor People and Children, Members and
 Officers at or in the said House, & en le p'ssi lieu cōtein le fine
 de Suttons piety & charity: Car (a) sapiens incipit a fine, &
 quod primū est in intencionē ultimū est in executione. Et t
 suit grand motive al Roy de son royal authority a doner a
 luy means, cessacabote p creation d'un capable corps po-
 litiq per voy de incorporation daver perpetual succession
 a p'server & perpetuer cy pious & charitable ouvrage.
 Et

*Le respons al
 2 Objection.
 (a) Co.Lit. 70. b.
 127. b.
 Devant 23. b.*

Et q le incorporat doit pceder le executio de cest licence, e ebi-
dent p les pils e coherence des lres patents, s. Car ce licence
est in futuro, s. al Ch. Sutton les h's, executors, admini-
strators e assignes at all times hereafter at their will and
pleasure, &c. Ilunt q t est future c'bien en p'sons, h's, executs,
et. c'oe en chose d'ee fait. Des qnt il viet al clause de incorpo-
rat il fait t p verba de p'senti repore: And the said Persons, and
their Successors by the name, &c. We do by these Presents for
ever hereafter really and fully incorporate, &c. p q ensuit q le
incorporat effeet p'sent, e le executio de t pr del licence future
le incorporat doit de sine force pcedre le execut del licence. D'q's,
intat q le principal foundat del scruple fuit r'ocesse sur ceut
pils, to found, erect and establish, le voier Etymology e ge-
n'ine sente de eut fuit c'osider; & ex vi termini fundare, nihil
aliud est qua fundament jacere seu ponere, &c. a fecter le foun-
datis dun edifice; e in ce sente le Saint Esperit (q mova
Sutton a cest ouvrage de charite) en le Scripture p'ist t:
Et p t en (a) 3 Regu cap. 6. 37. Fundata est domus anno primo, (a) 3 Regum c. 6.
& anno 11: pfecta fuit domus in omni opere suo: Et (b) 3 (b) 3 Regum c. 16.
Regu. c. 16. 34. Edificavit in diebus illis Hiel de Bethel Jerico vers. 36.
in Abira primitivo suo fundavit, & in Segub novissimo suo po-
suit portas. Par q appert, q a founder est a fecter le foundatio
dun edifice, que est le p'mier mechanical part de Archite-
cture. Donques quant le foundatio est fect, doncs vient
le erection dun edifice, come est dit p le l'ra de Sirach 49. 15. Eccl. c. 49. vers. 17.
Erexit nobis muros & erexit domus nostras. Et coist que le
foundation soit bien fect, e sur t edifice bien erect, uncoze
doit estre bien conjoine e establish, e pur t cest patol stab-
lish est adde a faire le edifice d'aver continuance; 3 Regum 13.
Stabiliam thronum ejus, i. j'eo ferra son trone d'aver perdu-
rance e continuance. Ilunt que a founder, erecter e establish
sont opera laboris, e labores architector e t appert per les
pils del Ch'ce mesm, cestascavoir, the King affecting so good a
Work, tam bonum opus: auzp les pils subsequente appo-
vot t auzp, cestascavoir, to found, erect and establish (what?)
an Hospital-house: Ilunt que appert clerement, que l'effect de
cest licence est a faire fit e a finisier e furnisher un Hospital-
house p le habitation des p'oures, &c. vide ap's Michi. 34 & Apres 31. a. b.
35 Eliz. le case del Hospital de Wyndel p le exposition de
ceut pils fundo, erigo & stabilio, que est plus fort case que
t est. Et cest pol place en le p'm lieu est dest' intendue, c'oe
ad esse en le darraime lieu, cestascavoir, a plac p'oures en t,
a erecter

Le Case de Sutton's Hospital. Part X.

a creder un free school pur instruction de pouz & p le main-
 tenance d'un paroch. Des cois sera celi (ainsi & chari-
 table intentis) que d'ensemble in succession a tous jours)
 pout au fine & effect? Le Case in demonstratione est en celi in
 effect in celi manner: Est impossible a pas in succession a
 tous jours sans capacity; & capacity a pas in succession ne
 pout estre sans incorporat; & incorporat ne pout estre create
 sans le Roy; & celi cause le Chert dit, And for the main-
 tenance and continuance of the said Hospital, &c. And that
 the same may take the better effect, That the said Person, &c.
 be one Body Corporate and Politick to have perpetual succes-
 sion for ever to endure. We do by these Presents for ever here-
 after fully and really incorporate, &c. to have Capacity and
 ability to take, &c. Sans celi capacity le fine ne pout estre
 effect, car (a) inhabitanes d'un ville ou autres singular per-
 sons (que nont capacity a pout en succession, mes loient
 a leur singular deces) ont capacity a pout incorporat; &
 pas leur incorporat lis ont capacity a pout in succession
 alguns terres, tenements ou hereditaments; unde sequitur,
 que le incorporat qui dunt capacity pout preceder le dota-
 tion d'aucun terres, &c. Auter licence est fait a celi nobel
 incorporat a pout en Dormant. Celi licence n'est de
 necessite au del d'aucun del incorporat au del d'aucun de celi,
 mes un est requisit p le establissement & maintenance del fine,
 celi incorporat, dunt pout en celi & pout en celi, &c. Car
 celi ne pout estre maintenue sans revenue, & revenue (come
 ad celi &c) lis ne pout pout & d'aucun sans licence en
 Dormant; & pas celi &c. &c. Incorporation & licence
 de Dormant convient a preceder dotation. Celi parols a
 founder, creder & establir un hospital n'eston, ne pout
 estre extend al incorporat, car d'apert al Roy loient,
 & celi le Roy fait; ne al aucun dotation, car unque (come ad
 celi &c) n'est aucun capacity; Ergo d'apert loient al
 edifier & finisier del dit maison d'aucun par habitation pur
 poures, &c. Sutton pensant & repensant & edifier le incor-
 porat come le licent in Dormant fut in tous severis
 degrees requisit a producer son bon & charitable purpose al
 fine, au fine & le Roy grantea & q'aucun loient in son
 pout a grante, & q'aucun loient le Roy ne pout faire. Il fut
 auter al Roy a donner a son licence a celi & q' de son meisme en
 respect del ownership del terre il pout (sans le Roy) faire, & a
 edifier, finisier & furnisher le dit meisme pur le habitation des
 poures

(a) 21 E. 4. 56a.
 Co. Lit. 3a. Cr.
 El. 35, 363. Lane
 12. 1 Rol. 513.

poures bien devant le incorporat come aps : mes a doner e
 in succession, &c. come ad estre dit il ne poit, & p e cest licence
 fuit forsq explanatoz a declare q Sutton come owner del
 meason poit faire, ou obe licence de Roy ou sans le Roy ; &
 p e le Roy ne poit countermand cest licence, p e q nest forsq
 que declaratoz de e q Sutton poit faire come owner del e
 sans aucun (a) licence ; & e applert p e liure en 3 H. 7. tit. (a) 3 Inst. 202.
 Grac. Fitzh. 36. le recoit de q se aye view int John Buckand
 Alntner Pl en action de trfis, & Rich. Fowcher Chapleyn
 Def. Termino Sancti Mich. 2 H. 7. Rot. 155. en Bank le Roy,
 & en le report alarge (b) 2 H. 7. 13. a. b. ou le case en effec e, q (b) Br. Patent 44.
 le Roy H. 4. p ses Ltes Patents anno 6 Regni sui, recitant q
 Rob. Ramley fuit seisse en fee dun mese en le Parish de S.
 Margaret en Londres appel le Sunne, &c. nient obstant le
 stat de Hoptmain de gratia sua speciali & p 20 l. don licence a
 R. Ramley q il poit doñ 20 marks de rent issuant del dit mese
 (c) cuida capellano divina celebranti ad altare Beatae Mariae (c) 1 Rol. 513.
 in Ecccl Sci Magni Lond' singulis diebus p salubri statu prad'
 Rob. & Johan' ux' suæ, &c. Habend' & tenend' eidẽ capellano
 & successoribus suis capellanis Cantariae prad' divina in Ecclef.
 prad' ad altare prad' p salubri statu, &c. juxta ordinatiõ, prad'
 Rob. in hac pte faciẽd' celebrat' imperpet', &c. & puis le dit
 Rob. Ramley per son fait Indent tripetite 10 Junii 1407.
 souba, ordein & erect le dit Chaũter, & ordein & nosma un John
 Medow deñt le pñt chaplain p fait les dits divins services ;
 & ouster p m le fait grat al dit John Medow le pñt chapleyn
 10 marks d'annuel rẽt issuant hors del dit mese ; a ad a luy
 & ses successeurs chapleins del dit Chaũter al 4 usual feasts
 en Londres destre pay, obe clause de distres a luy & a ses suc-
 cessors, & ouster ordein p m le fait q il m pñt al dit Chaũ-
 tery durant son vie, & aps s deceale q Johan la feme pñtera
 a e durant sa vie, & aps sa deceale p le Parson & Church-
 wardens del dit Eglise de S. Magnus & leur successeurs, &
 puis le dit John Medow mourut : & aps dits vacations le
 Def. Richard Fowcher fuit pñt al dit Chaũter, q p le
 dit rent arere entre en le dit mese le huis estreant obert, & pñt
 un cuppe del Pl p distres, &c. p q pñt lacion fuit port : sur
 q matẽ les pñes ont demurre en Ley : & cest case fuit ad-
 joine en Leichequer Chamber ; & la devant tous les Justices
 Denglise dits objections fũt faits enconẽ cẽ licence & grãt :
 1. Que e q il fũt cuida Capellano, & nosm nul in certain ; &
 qñt le grant le Roy est noncain e est void, come si le Roy li-
 cence

Le Case de Sutton's Hospital. Part X.

(a) Perk. sect. 65.

1 Rol. 513.

Br. Patent 44.

cence un a dofi 20 marks de rent (a) cuidam Abbati, le grant est void, intant q n'est tain : 2. Il n'ad tiel Chapleyn tanqz R. Ramsey ad nollm & ordein un ; illint q appiert q le grāt serf a cessy q ne suit in rerum natura, cōe si le Roy dōe licence a grant al Baisor & Com de Milingtō, t est void ou n'est ascū tiel incorpozat cōint q aps les inhabitants de Milington sont incorpozat p le nollm de Baisor & Com, p t q suit nul tiel in rerum natura al tēps de grant : 3. Fuit object q le Roy n'ad fait ascū incorpozat en cest case, & incorpozat est chose dōe fait solēnt p le Roy m ; & ceut pois juxta ordination p R. Ramsey siendā ne enhablera le dit Ramsey a fait incorpozat, car le Roy ne poist donec licence a ascū de fait incorpozat, mes les dits pois dofi a luy power a fait ordonnance pūmēnt touchāt malles & ausz divine services : 2. De qī māner de habite il serf : 3. D'ad successiō ppetual, s. elective, pūentative ou donative, & t est le effect de tiels pois & nēp de fait incorpozat. Et le grant le Roy ne serf pūse p implicat, s. p les pois a fait incorpozat & aury a dofi licence a grant le dit rent, car dōqz le grant le Roy enurera a 2 intents : 4. Admittant q la terra incorpozat p implicat, unt le incorpozat doit ēe devant le licence, & icy le licence est devant le incorpozat, & p t void : 5. Le grant doit ad esse q le Roy dōe licence facere & erigere Cantariam, Sec. & ne fuit aucuns tiels pois en le Chē, mes solēnt licence a grantet rent, & cuidā Capellano, Sec. 6. Le licēce est secundū ordination p R. Ramsey siendam ; & p t le Roy est deceive, p t q il ne pūit ad comūans le qī ordonnance t terra : 7. Fuit object q le distres fuit sans garē & void, p t q le licence extend a grantet rent solēnt, sans mention d'aucun distres. Queux objectiōs seō icy collect boz del lūre report alarge, 2 H. 7. 13. a. b. & le report de Fitz. in 3 H. 7. tit. Grant 36. & boz del tētop meisme.

Quant al pūm & 2 object fuit resolve q le grant fuit bon, car tous les grāts de Chātries sont de tiel forme, a cuidā Capellano, & cōint q n'ad tiel Chapleyn al temps n'est a purpose, car si le Roy grant al Cōminalty de Milingtō, q ils serf incorpozat dun Baisor & Bailifs, & q ils ont power a essier un, t est dōe, cōint q election de Baisor est future. Illint Lettre Nota diversity inter estate ou interest q nul poist pūder sans pūent capacity & power, liberty ou franchise ou chose nobelint create q poist pūd effect in futuro. Quant al 3 fuit resolve, q ou le Roy p son Chē dit cuidā Capellano, t fuit sufficient incorpozat ; & qī il dit en le Habendum sibi &c

& successoribus suis, & fait sufficient successe: & M^{re} Nota
 Lecteur & grant del Roy enu^e a (a) 3. entents, s. a faire incor- (a) 2 Rol. 100.
 porat, a faire successe, & a granter rent. Quant al 4 fut re-
 solve, q ou fut object q le licence de foun^r Chauntery terra
 p^rimes, & de grant aps, & ne besoigne, car n^e material q est
 devant (car le Ley cōstruet & a pceder q doit & p^rimes) mes
 icy ils sont limel & semel. Quant al 5 q en le licence ne fust
 pois de fundare, erigere, facere, fut resolve q n^eent obstant & le
 grant fut bōe. Nota ex hoc Lecteur, q al essence del Chaun-
 tery ou aut corps pollicy, 2 choses sont solent requisit, s.
 incorporat & bōe, & nemy ass^e pois de fundare, erigere & stabi-
 lire, ou autels pois a tiel effect, car nul tiels pois fust con-
 teine en le dit grant de H.4. & un^t fut adjudge bon Chaun-
 tery loyal^{te} incorporat & foundue: & si tiels pois ont este
 necessary & requisit en Ley, le judg^{nt} dūst aver estre done
 enconter le Chauntery, p^r & q ils fust omitt en le Charter
 le Roy. Et p^r & appert q en le case al barre ils fust explana-
 toy & de abundance, q est un judg^{nt} en le point p le reso-
 lution des Justices en Leschequer Chamber. Quant al 6
 point fut resolve q ceuz parols secundum ordinationem per
 (b) R. Ramsey fiendā, impo^rtant ass^e certain^t, cessastavoit, (b) 1 Rol. 513.
 a inhabler Ramsey a ordeiner, 1. Queux masses & auters di-
 vine services terra celebrat, 2. De quel habit ou oder le
 Chapleyn terra, & 3. Le q^l si terra elective, p^rentative, ou
 donative: p force de queux pois Ramsey en le case al barre
 ordeine ceo desire p^rentative per le Remoz del Parish de
 Saint Magnus a routs jours. Quant al sept objection
 appert p le report de Fitzherbert ubi supra, que lopin^o des
 deux Chief Justices Hussey & Brian, & Starkey Chief Baron,
 & Fairfax Justice fust, que le distres fust sans garrant,
 mes Townshend Justice semble & done. Mes inspecto re-
 cordo fut adjudge, q le distres fust bone, & bien garrant p
 le grant; Car le Chauntery p^rest distreine en le dit mea-
 son p le rent, & son distres adjudge loyal & le Plaintif bar^r:
 & les reasons come semble a moy fueront, p^r & q les Ch^{es}
 le Roy faits pur erectio de pious & charitable ouvres terra
 routs foits pise en le plus benigne & beneficial sense, & le
 plus beneficial rent que home poit granter est rent charge.
 2. Distresse est necessary incident al rent, car sans & le gran-
 tee terra sans remedy: (c) verba sunt accipienda cum ef- (c) 4 Co. 21. 2.
 fectu, & parols sont desire pise obe effect (d) 2 Edwardi (d) 4 H.7. 13. a. b.
 tertii. 3. Quel case j^{eo} aye este plus alarge par & que est
 notable

Le Case de Sutton's Hospital. Part X.

*Le q^uerant del
Chartre.
Le Respons al 3 Ob-
jection.
Devant 23. b.*

notable & peinent, & plus fort (come moy s^{er}e) q^u le case en
q^ustion. 2. Power est done a Sutton to place a Master of the
said Hospital. 3. At all times hereafter to place, erect, found
and establish in the said House, &c. one Free-school for instruct-
ing Youth (q^u bien expound les p^{re}sent po^urs concernant le
Hospital, car ce^ux po^urs extend sole^unt a faire & a fin^{ir}er &
furnisher un Grammar School deins le dit case del Ch^{ar}-
house) and a learned Preacher to teach all in the Word of
God. 4. We by these Presents do ordain, constitute, limit and
appoint, That the said House and other the Premises, shall from
henceforth for ever hereafter be, remain and continue, and be
converted, imployed and used for an Hospital and House, and
Place for abiding, &c. And shall for ever hereafter be named,
incorporated, and called the Hospital of King James, founded
in the Charter-house within the County of Middlesex, at the
humble Petition, and at the only Costs and Charges of Thomas
Sutton Esq^r; And the same Hospital and Free-school by the
Name of the Hospital of King James, &c. We do firmly by
these Presents, erect, found, establish and confirm, to have
continuance for ever. Per cest clause le Roy in p^{re}senti d^{on}e
le no^ume del Hospital, mes, come appiert devant, Sutton ad
deb^use t, & ad sue al Roy a no^umer t accordant, & t le no^ume
del incorporat^un, cessascavoir, al humble suit, &c. de Ch. Sut-
ton, import; issint q^u come est dit en 28 E. 3. 14 b. & 21 E. 4. le
(a) no^ume de incorporat^un est come un p^{ro}p^{ri}et^{er} no^ume ou no^ume
de baptisme: en cest case Sutton come Complier done le
no^ume, & p^{ar} t le no^ume le Roy baptise le incorporat^un: p^{ar} q^u ap-
piert q^u le objecti^on q^u le Roy ne po^uit done^u no^usi al mese q^u est le
inheritance d'un aut, n^{est} dascu^u value, car icy Sutton ad c^{on}sent
& assent a t, & tout t est fait a son humble suit: & cest objecti^on
tend al dissoluti^on de tous ancient Deans & Chapters;
car al p^{ri}mes come appiert en le 3 part de mes reports en le
case del Dean & Chapter de Norwich tous les possessions
sue^ut al Evesq^u, & uncore p^{ar} son assent le Dean & Chapter sue^ut
incorporat^un & no^ume del Eglise Cathedral, q^u a d^{on}ques appent
al Evesq^u sole^unt, & puis certain porti^on: fuit assigne al
Chapter: issint que le Chapter fuit devant que s^us avoyent
aucuns possessions, & t est le cause q^u de c^{om}un droit Levesq^u
est p^{re}tre des p^{re}bent^us, pur t q^u leur possessions sue^ut deribe
del Evesq^u, & pur t il fuit founder & p^{re}tre: & obe t accord^u
17 E. 3. 40. a. b. 25 Ass. pl. 8. 10 E. 3. 10. 50 E. 3. 26. b. 15 H. 7. 11.
issint q^u al p^{ri}mes le Dean & Chapter sue^ut per assent del
Evesq^u

(a) 1 Rol. 512.
Apr^{es} 123. 38 E. 3.
25. a. 21 E. 4. 56. a. b.

Palm. 495. 3 Co.
75. b. Cr. EL 79.

3 Co. 76. b.

Fitz. Quare imp.
70. Br. Dean &
Chapter 16. Palm.
494. 3 Co. 75. b.

Evesm incorporat e nomie del Cathedral Churche del Evesp.
 Ce qui vit q' q'uns moute en Lestchequet solent estre seblable
 aux spires q' poise estre raisse oue mult facilez, mes supplese
 e vantage oue grand difficulty: mes ceuz q'uns n'est semble
 aux cymours ediffices plus facilest p'posent q' raisse e erect.
 Et tous les argumens q' ont este fait en ceste honorable
 ouvrage de charite, sont batre hors de terre coneeit e
 novel inventis sans aucun ground del Ley, e ceste q' ont
 aucun colour n'est ousterne mispise. Et q'nt al 4. exception, q' le
 non de chescun coporat doit estre latin, e ceste n'a e le Roy
 licence Sutton a foun, edifier, et. un Hospital at or in the
 Charterhouse, q' fuit latin, a e le Ceste in english e ceste, q'
 le Roy p' cest clause ordonne, et. That the said House and
 other the Premises shall from henceforth for ever hereafter be,
 remain, &c. and shall for ever hereafter be named and called
 the Hospital of King James, founded in the Charterhouse: ainsi
 q' tout le meue e ausi les p'mis. sont baptise p' le Roy p' le
 nomie de Hospital, et. en q' en lui madon de incertaintie: e
 p' Sutton q'nt al licence p' le mechanical part, (q' come ad
 est die) fuit abondant de affer e finier tous ou aucun part
 del meue p' un Hospital, et. ainsi tout le meue nomie e gardes,
 ordonne, et. sont nomie p' le nomie del Hospital. Et fuit ob-
 serve, q' le Roy p' ed clause non soleint nomie le dit meue de lre
 Hospital, mes p' le nomie del Hospital erect, foun, ediffice e
 edifier, ainsi q' le Roy nomie e raisse le mechanical part al
 Sutton a p'pos. Et de m' le importance en laicet objectis, q'
 un nomie conus ne fufficient a foun Hospital, mes doit ee
 describe p' motes e boies, ice en v'ns p'cedens ad ee use: car
 appelle en Wilkin de Lodres Case in 2 E. 3. 36. b. Adam port
 deire fice de Wilkin de Lodres del manoir de E. le Det. plead
 q' il m' e p'p. del Hospital de S. Bartholomew, e ainsi port
 nomie de dignity nient nomie, jugint del be, a q' le p' reply,
 q' e q' le Det. appel un Hospital est le manoir de East Smith-
 field, e fuit manoir al temps de fine leuy: Et fuit tenu p' le
 Court q' p' cest b'et il voit ad le manoir come d' q' le manoir
 fuit al temps del fine leuy, e ou le manoir fuit fait Hospital
 puis le fine leuy, p' cest fuit il en a de lre b'et e b'et
 nomie, e accordant fuit rais q' le b'et fuit bon. Quel p'p.
 q' manoir q' impoit plus b'et e incertaintie que un meue
 conus p' certaine nomie port est erect en un Hospital: Et
 en 15 Ass. 8. John de Derby Case, un manoir fait copus p'p-
 bend. Le 5. clause estoit sur deux b'anches: 1. For the better
 main-

Respons al 4. Ob-
 jection.
 Devant 23. b.

2 E. 3. 36. b. 21. a.

Br. Corporation
 42.
 Br. Dean, &c. 14.
 Le 5. clause del
 Charter.

Le Case de Sutton's Hospital. Part X.

maintenance and contiguance of the said Hospital, &c. and that the same may take the better effect, and that the Revenues may be the better governed and employed, there shall be 16 Governors, & no more, 13 de eor p eorps nomine, and such Person as from time to time shall be Master to be the first and present Governors: 2. And the said Persons and their Successors, by the Name of the Governors of the Lands, &c. one Body Corporate and Politick, by that Name to have perpetual Succession for ever to endure. We do by these Presents for ever hereafter really and fully incorporate: & les poins de ce clause sont verba operativa. Et est aicaboir, q chetun corporat ou incorporat, ou corps politick e incorporat q sont tout un, ou estoit sur un (s) soit pion come le Roy, Evesq, Baron, ec. ou aggregate de plusieurs come Mayor & Com, Dean & Chapter, & ceur sont en le Challe Ley appel Universitas sive Collegium. Or e a veper sur choses sont del essence des corporation: 1. Loyat authority de incorporat: & t port est p(b)4 maners, cest aicaboir, p le Comon Ley, come le Roy mesme, ec. p authority de Parliamt, p Chre le Roy (coe en cest case) & p prescription. Le 2. q est del essence del incorporat sont psons destre incorporat: & t en deux maners, cest aicaboir, psons natural, ou corps incorporat & politick: 3. An nomine p que ils sont incorporate: come en ce case governors of the Lands, &c. 4. Dun lieu, car sans lieu nul incorporat poit estre fait: icy le lieu est le Charterhouse in le County de Midd. Vide 3 H. 6. tit. De i. 17 E. 3. 59. b. & 45 E. 3. 17. 5. Per parols sufficient en Ley, mes nemp restraine a aucun certain legal, & pscript forme des parols. Et intant que bon pleader est lapis lidus le touchone del voper sense & science del Comon Ley, le forme de pleader dun corporation per prescription est destre observe: car en tiel case il cobient a pscripter en chetun chose que est del essence del incorporat. In le Liure de Entries, tit. Quare Impedit. 1. Le pleading est quoddam Hospitalis Sca Maria de Bristow de uno Magistro & conventu a toto tempore, &c. incorporat fuerunt p nomen Magistri & conventus Hospitalis Sca Maria de Bristow: & la opiert q la ils purchasont terres & tenements & suet implead sans aucun prescription per luy ou l'auter, pur q qnt ils sont incorporat p prescription p certain nomine, donques a impleader & destre implead, a grantee & sealer, ec. sont incidents a un corps incorporat, Mich. 15 H. 7. Rot 522. in Communi Banco, la le prescription est Custos & Vicarii Collegii Vicariorum in Cho-

Verba operativa.

La division des corporations.

(a) 1 Rol. 512.
Quelques choses sont del essence des corporations.

(b) 1 Rol. 512.

1 Rol. 512.

1 Rol. 512.

ro Hereford' sunt & a toto tempore, &c. fuerunt incorporat' p
nomē Custodis & Vicar' Collegii Vicarioꝝ in choro Hereford',
& la aury ils pebasont & fueſt implead cōe incidents al incor-
poraꝝ, (a) Liure Dentries Tit. Ass. fol. 68. Magister, fratres, & (a) Rast. Entr. 68.
sorores fraternitatis sive Guildæ novē ordinum sanctorum An- a. b.
gelorū juxta Branford poꝝt assise : le tēſi plead quod in Villa
de Brainford est quādā fraternitas incorporata infra tempus
memoriæ de magistro fratribus & sororibus novem ordinum
Angelorū juxta Brainford Bridge, absq; hoc quod habetur ali-
qua talis fraternitas. Quel case est report in (b) 22 E. 4. 34. a. (b) Br. brief 398.
ou le tēſi al pꝛimes plead nul tiel corporaꝝ, & si trobe ne soit, Br. Corporation 67
& male quia deux barres ; & donq; il plead le dit plea quod
est quādā fraternitas incorporata, &c. & uncoꝝe la ils fueſt in-
fessō p' Bocking sur conditiō, & capable de t' cōe incident al
incorporaꝝ : & ove t' accord Levelsq; de Exceters Case en le
Liure de Entries, fol. 455. (c) 2 H. 7. 17. b. le corporaꝝ de God- (c) Br. Corpora-
mācheſter, (d) 34 H. 6. 27. a. b. in le case del Hosp. de Wycome. tion 46.
Vide (e) 26 H. 8. 1. b. In 9 E. 4. 20. a. le Maſter del Hoſpital de (d) Br. Action sur
Burton St. Lazari pſcribe, quod ipſe & omnes prædeceſſo- leſtature 9. Br.
res ſui magiſtri Hoſpitalis præd' a totō tempore, &c. nominati Pleading 11. Br.
& cogniti fuerunt, &c. tam p' nomen magiſtri Hoſpitalis ſci Affiſe 11. Br. Cor-
Lazari de Burton, de ordine ſci Lazari de Jeruſale in Anglia, poration 7. Fitz.
quā p' nomē Magiſtri de Burton ſci Lazari de Jeruſale in Ang- Bar 67.
lia, p' q' appert q' ceſt pol (g) incorporo, ou aſcun verſuatiōe (e) Br. Corpora-
de t' neſt pas en Ley requiſit a creater incorporaꝝ, mes auſs tion 1.
pols equipollents ſont ſuffiſient, come icꝝ nominati & cog- (f) Br. Corpora-
niti : & ove t' accord (h) 44 Ass. pl. 9. en le Pꝛioꝝ de Plimp- tion 32. Br. Aver-
tons Case, & (i) 4 E. 4. 7. b. en le case del Abbot de Glaſtēbury, & ment 17.
en nul de ceux liures ou recoꝝds ſuit aſcun mention fait de (g) 1 Rol. 513.
ceux polys (k) fundo erigo, &c. ou aſcun polys ſemblables, car (h) Br. Corpora-
come ad eſtre dit ils ſont polys declaratoꝝy ſoleiūt, & leſſet tion 44.
de euz poiet eſtre fait p' le owner del t're ſans aſcun grant. (i) 4 E. 4. 8. a. Fitz.
Et ſuit bien obſerve q' dancient temps Inhabitants ou Bur- Brief 150.
geſſes dun Ville ou Burgh fueſt incorporaꝝ qſit le Roy grant (k) Devant 24. a.
a euz dā Gildam (l) Mercatoriam : in le Register fol. 219. b. 28. a.
ou le bꝛief recite qd' cum inter ceteras libertates Civibus Ci- (l) 1 Rol. 513.
vitatſ Winton p' cartas progenitorū noſtroum quondā Regū
Angliæ, quas p' cartam noſtram confirmavimus, conſeſſum ſit
eiſdem, quod nullus eorum qui fuerunt infra Gildam mercato-
riam placitet extra murum, &c. ou gilda ſignifie contuberniū
ſeu fraternitas incorporata ; & ſur t' le lieu de leur conven-
tions & aſſemblies ſuit appel le Guildhall. Et jeo aye vieu
le

Le Case de Sutton's Hospital. Part X.

le Chste fait p le Roy H. 1. Textoribus Lond' p q il grant a eux q ils averont Gildam Mercatoriam, & confirmation de t fait p le Roy H. 2. p qur Chartres ils fueront incorporat. Et ou loptinon de Fineux en 13 H. 8. f. 3. b. & de Prisot in 39 H. 6. 13. b. fuit cite al barre, q un corpozat aggregate de plusors ne poit estre un corps soleint sans teste, t fuit ousterment deny; car al pimes plus pt des corporatiōs fuef un corps sans ascun teste p force de ceux pols Gilda mercatoria. Et q un corpozat poit estre aggregate de plusors sans teste, Vide 18 E. 2. tit. Annuity 48: 5 E. 3. 11. b. (a) 22 Aff. pl. 67. 29 Aff. pl. 17. (b) 2 H. 6. 9. a. b. (c) 18 H. 6. 16. a. b. 19 H. 6. 80. (d) 21 E. 4. 55. b. 56. a. b. (e) 7 E. 4. 14. a. b. 2 Mariae Dyer 100. (f) Et appiert p record q Paulinus le pmi Archievelq de York, puis q il ad baptise les Inhabitants de Nottinghamshire en le River de Trent, found un Eglise Collegiate en Southwel de Prebendaries consecrate al Virgine Mary, q cōtinue un corps sans teste jelsq a cest jour. Vide p cest pol Guild ou Fraternity en Liure de Entries (g) f. 68. (h) 37 E. 5. 15 R. 2. c. 5. lestat de 1 E. 6. cap. de Chauntries. In q trois choses fuef observe, cōme prudens antiquitas tous foits cōpessd mult matf en un narrow room: 1. Que al creat dun incorporat le Ley nad restraine luy in a ascū pscript & incōpatible pols: 2. Que qst un incorporat est dueint create, tous auls (i) incidents sont tacite annex, Et p direct authority en cest point en 22 E. 4. tit. Grant 30. est tenu p Brian Chief Justice & Choke, q corpozat est sufficient sans pols de (k) impleader & destre implead, &c. & p t dñs clauses subseqent en le Chartre ne sont de necessity, mes soleint declaratory & bien poient ad estre omise: 1. By the same to have authority, ability and capacity to purchase, mes nul clause est add q ils poient alien, &c. & ne besoigne, car incident: 2. To sue and to be sued, implead and be impleaded: 3 To have a Seal, &c. Ceo est aury declaratory, car qst ils sont incorporat ils poient faire ou user ql leal ils voillont: 4. Restrain eux de aliener ou demiser mes en certain form; Ceo est un ordinance testemontant le destre le Roy, mes t nest q pcept & ne lra en ley: 5. Que les survisors serf le corpozat, t est bone clause p ouster doubts & questiōs qur poient surder, le number esteant tain: 6. Si les revenues increase, q eux serf inploy a increaser les number de pources, &c. t nē q explanatory, cōe appiert en le (l) Case de Thetford School en le 8 part de mes Reports f. 13 r. a. 7. Dēe visited p le govrnoys, &c. t ē aury explanatory, Car

- (a) Br. Corpora-
tion 43.
(b) Br. Corpora-
tion 3.
(c) Fitz. Brief 75.
(d) Br. Corpora-
tion 65. Br. Parlia-
ment 64. Br. Pa-
tent 72. Br. Laches
15.
(e) Fitz. Grant 18.
Br. Corporation
54. Br. Parent 85.
(f) Dyer 100. pl. 70
1 Rol. 860. 2 Rol.
Rep. 155. 3 Leon.
202. 4 Leon. 235.
Noy 54. Davis
43. b.
(g) Rast. Entr. 68.
(h) 37 E. 3. cap. 5.
(i) 1 Rol. 513.
(k) 1 Rol. 513.
Hob. 211.
Clauses del Chartre
declaratory, &c.

(l) Popham 6. 7.
Moor 594. Cr. El.
288.

car en cest case les pources que terra resident en le mese de Charterhouse ne s'ent incorpore, mes certaine persons en qur les possessions sont vestes q ne s'ent resident la mes solement d'ab le geñal governmēt & ordering des pources deins ceo; issint q cē case ē hors des statutes de 2 H. 5. c. 1. & 14 El. c. 5. car (a) si nul visiter ad esse appoint p le Chartre, les gouvernoirs visiter: & les livres en 8 E. 3. 28. (b) & 8 Alf. 29. ne impugnant t, ou est tenuz, q si le Hospital soit laye, le patron visitera, & si spiritual, Levesqz visitera, issint q chescun Hospital est visitable; voir est, mes en le case al barre les pources del Hospital ne sont incorpore, & issint nul legal Hospital: 8. A fair ordinañces: t est requisit p le bone ordre & governmēt des pources, &c. mes nemy al essence del incorporation: 9. Exemption del Ordinary est forsq declaratoz, car esseant lay corporation il ne poet ne doit visiter: 10. Le licence a purchaser en Mortmain est necessary p le maintenance & sustentation des pources, &c. car sans revenues ils ne poient viber, & sans licence in Mortmain ils ne poient loyalmēt purchaser revenues, & unē t nest del essence del corporation, car sans t le corporation est perfect, Issint q p t q ad esse dit appiert qur choses in genere sont requisite a un compleat corps incorpore, & qur sont verba operativa in cē case (qur sont necessary dēe conus en chescun case) en le resolution de q appiert cōe necessary est q le Ley & experience joindra oūe lour maines ensemble.

Quant al 5. objection, q nul incorporation fuit fait maintenant, cōe les letters patents purport, ne poet estre tanq le Master fuit nominate, & p t le charter repugnant & void: A t fuit rñde q cest objectiō extend al subversion de grand number des incorporations; car qnt corporat est create per letks patents, p m les patents power est done al corps a essier un Mayor, Aldermen ou Bailiffs ou Goynors, ou autres semblables, & uncoze ils sont incorpore p mesme les letks patents maintenant: & obe t expressement accord Plow. Com. 536. b. (c) in Cooks Case, 21 E. 4. 59. b. & (d) 3 H. 7. tit. Grant 36. vouch a large devant al 1 & 2 objections. Vide 32 E. 3. Aid 39. Vide (e) 13 E. 4. 8. b. 16 E. 3. tit. Grant 65. & voiet est, q est maintenant p les letks patents corporatiō in Abstracto mes nemy Concreto, tanq le nomination del Master. Et un case adjudge en Bank le Roy, Mich. (i) 34 & 35 El. Rot. 172. (f) devant 26. a. corā Reg. fuit forñt urge: les goynors de possessions revenues & biens Hospitalis Ed. Regis Angliæ sexti poxt bill de debt de 201. vs Elias Germaine: le Def. plead q le Roy E. 6.

f

recitant

(a) 2 Rol. 231.
6 H. 8. 14. 2.
(b) 2 Rol. 229, 230.
8 Alf. 29, 31. 8 E. 3.
Assise 150. Raym.
107. Godolp. Abr.
34.

Respond al 5 Ob-
jection.
Devant 23. b.

(c) 2 Anderf. 208.
Moor 233. 1 Leon.
159.
(d) Devant 27. a.
(e) Br. Corporation
58.

(f) Devant 26. a.

Le Case de Sutton's Hospital. Part X.

recitant le care del City de Londres pur relief des pources
 hōes & enfāts concessit Majori, Civibus & Cōmunitati London
 domum mansionalem voc' Bridewel, &c. & la le Roy declare s
 intent q' Bridewel serf foundue, erect, &c. un Hospital p les
 dits pources, &c. idem rex ut intentio sua meliorem capiat ef-
 fectū, & au fine q' les tres sur serf grant a eux sera mieur
 govern, p eadē literas patentes voluit & ordinavit qd' Hosp'
 præd', cum sic fundat' erect' & stabilit' fuer' Hosp. E. 6. Regis
 Angl' Christi Bridewel & Scti Tho. Apost. nominetur & appel-
 let' imperpet' & quod Maior Cōmunitas & Cives Civitat'
 præd' forent gubernatores, &c. & qd' iidem gubernat' de cæ-
 ter' essent & forēt unum corpus corporat' p nomen gubernat'
 possess. revention' & honor' Hosp' Edw' Reg' Angl' Christi
 Bridwel & Scti Tho' Apost', &c. & plead out' qd' null' Hosp' qua-
 le in eisdē lit' patent' mentionat' post cōfect' præd' lit' patent'
 sic fundat', erect' & stabilit' fuit, &c. sur q' le Jd' demurt; &
 sur arguēt al bar' & al bench fuit adjudge p le Jd', car le
 dit ordināce, q' le dit mese serf Hosp. cum sic fundat', &c. fues',
 est intend soleint del mechanical pt dun aduel Hospital, s.
 del sitting & finishing del Hospital meason obe pources, &c. &
 cē Hospital, in intentio soleint ē sufficient a support nōm de
 corporat', & les pōis de pñti, s. qd' iidem gubernat' de cætero
 essent & forent unum corpus corporat' p nomen, &c. en Ley
 incorporate euz maintenāt, & ne targerā tāq' soit aduel Hosp.
 ou tāq' le meason soit fit ou finish, q' est le mechanical pt p
 un Hosp. s. p habitac' des pources; q' est le pñm chose deit ob-
 serve p le dit judgnt. Vid 32 E. 3. ut. Aid 39. le Roy E 3. no-
 belint found un priory, & grāt al moignes, q' ils poiet essier un
 priory, & debāt q' le priory fuit eleat. Al. list leas a un A. p fine de
 vie, le rem al priory & corēt; & en Scir' fac s. A. il plead q' Al.
 fuit seise en fee & testa al A. le rem al priory & corēt q' fues' no-
 belint foundue p le roy, & p c' q' nāba pas un priory, de dēt fuit
 al Roy tāq', & pñt al Roy, & lād fuit grāt p agard, & hē de
 Proceed' vñt, & adōcs A. le des. mfe q' puis lād grāt il ad un
 priory fait & ordēnt en q' le dñt demurt, & pñt aid del priory, &
 fuit outte del aid, p c' q' il avoit aid debāt: q' pve q' le (a) rem
 en tiel case ē bōe. Le 2. chose dēe observe en le dit judgnt en l' dit
 case del Hosp. de Bridewel ē, q' un (b) corporat' poet effe fait
 hors dū aut corporat', s. le maiōr, coñ & citizens de Londres
 sont create en leur politick capacity goōnoys, &c. del Hosp. de
 Bridewel, 9 E. 3. 18. b. plusors corporatiōs poiet estre creat un
 hors del aut, cōe le dean & chapē de Lincoln sont un joint cor-
 porat', le dean p luy m est corporat', & chesē de les pñends est
 corporation a p luy. Et en un case cy manifest ē sufficera.

Et

(a) Co. Lit. 264. a.
 Hob. 33. 4 Leon.
 223. Dall. 31.
 (b) 1 Rol. 512.
 Br. Corporation 5.

Et qñt al 6. objection, q̄tanz un Hospital soit foundue nul incorporat poet ee, car donq̄s sert sole & mathematical goñnoys, fust rñdue q̄ la fust un Hospital in potest & Hospital in exec, aury Hospital in potenc & Hospital ad Hospital re & Hospital noie. Et qñt al creatio dun incorporat Hospital potestate, potentia, seu noie suffist; cōe un poet p lres patēts ee goñnoy dū army debāt q̄ soit army, Vide 17 H 6. tit. Protectio 36. Et t accord oñe philosophy & reaso. Aristot. l. 3. de generatione dit, q̄ carogignit carnē, & t voler ē in potestate, mes nemy actu: & ssint un oiseau cy tost q̄ t est hatchē ē volatilis a volando quia habet potestat volādi, quanquā act' volandū non habet. Ssint un infāt cy tost q̄ il est nē est dit rationalis p̄ t q̄ il ad potestat, cōm̄t q̄ il nad & pādventure ne unq̄s adā rationem actu. Et t ē aury p̄be p̄anciēt records & nfe liures aury, cōe en le Liure de entries tit. annuity, 32, 33. Rex H. 5. quandā domū in quod' loco sive solo apud Shene (& abut & bound le soile) quam vocari & nuncupari voluit, Domū Jesu de Bethalem de Shene, duxit ordinand' & fundand' & domū illā quāt' in ipso fuit fundavit & erexit (q̄ fust forsq̄ nominative mese, car nul adōq̄s fust edifie) & idcirco, locū & solū p̄d' de Shene ut primariā fundatiōē dedit, &c. p̄ q̄ appiert q̄ un void lieu ou soil en q̄ un mese ē intēd dēe edifie poet ee nōm̄ p̄ le chfe le Roy un mese, & cē nominative mese sert sufficient, cōe la fust, a suppoxt le nōm̄ del incorporat. Aury appiert p̄ Math. Paris. 64. &c. Polidos Virgil, Cronie Cronico, &c. le Hospital de S. Johns de Jerusalem in Anglia, fust incorporat in añ 14 H. 1. & des Temples p̄ le nōm̄ de Magister milit' tēpli & cōfrat sui in Anglia in añ 24 H. 1. & unē neq̄ le fabrick del tēple, neq̄ le mese del Hospital, fust foundue & edifie, sed regnante H. 2. de lun Jordan Biset homo pius & bene nummatus, & de laus Heraclius Patriarch de Jerusalem fust foundoys, Vid. Caden Britā, f. 311. Quel p̄be q̄ void soile p̄ suppoxt nōm̄ de incorporat poet ee p̄ chfe le Roy nōm̄ Hospital ou Tēple, & nē requisite q̄ tous soits soit dity en le nōm̄ del incorporat, ou del Hospital, ou dalcun auter corps politicke. Roy H. 8. añ Reg' sui 2. solsq̄ le volūt del Roy H. 7. grāt al dñs Evesq̄ Tho. Countē de Arundel, &c. John Fineux & Rob. Read Chief Justices, J. Young Master des Rols, &c. q̄ur fust execut del Roy H. 7. quand' peciā terrā voc le Savoy en le p̄shes de S. Clements & S. Mary de Strand ad intētiō qd' iidē qd' Hospital' in & super prād' peciā terrā voc' Savoy erigere, fundat & stabilire possint, 4 H. 8. le Roy licente euz quodd' Hospital' de uno magistro & 5 capell. super prād' peciam terrā vocat le Savoy fundat & Hospital' cū sic fundat' fuerit, sert incorporat p̄ nōm̄ Magistr' & Cappellano-
f 2
norum

Respons al 6 Ob-
jection.
Devant 23. b.

Apres 123. b.

Le Case de Sutton's Hospital. Part X.

- (a) Moor 228.
1 Leon. 159. 1 Anderf. 202. Hob. 125.
Après 123. b.
(b) Fitz. Sc. fac. 88.
Br. Corporation 10
(c) 9 E. 4. 19. b.
Br. Corporation 32
(d) 1 Rol. 512.

- (e) Br. Corporati-
on 11. Br. utlagary
72. 39 E. 3. 13. a.
(f) Br. fealty 15.
7 Co. 10. b. Co. Lit.
66. b. 4 Co. 11. a.

- (g) 2 Rol. Rep. 254.
Co. Lit. 390. a. 7 Co.
9. a. Cart. 87. Hob.
222. 338. 31 E. 1.
Brief 873. 11 E. 3.
Voucher 13. 9 H.
6. 24. a. 2 Rol. 746.

noru Hospital' H. nu p Regia Anglia 7 de Savoy, & unt en Xity ne fut hospital e teps le Roy H. 7. mes en intentio soleint, & unt le Roy en e chie nosme e le Hospital del Roy H. 7. & e fut adunt des bone nosm de corporatio p tous ceur q arguont le case int' (a) Mariat & Paschal sur le incorporat del dit Hospital, Tt 30 Reg' El en Leschequer, ou le case fut adjudge, ou en Leschequer Chamber ou e depen p bt de Error. Et p e en (b) 44 E. 3. 16. b. Registr. 23. la le corporat fut, Prior Hospital Sci Johann' Jerusalem in Anglia: & issint (c) 9 E. 4. 6. Hospital Sci Lazari de (d) Jerusalem in Angl. q fust p le nosm de corporat, coe en e unq fiction, & q ou S. John (q fut S. John le Eban-geliste) ou Jerusalem fut de siter in Anglia: issint magistri milite Templi Jerusalem in Anglia: Et en le Register, Prior, & fies Sre Marie de monte Carmelie in Anglia: issint seo ap blew re-cord q Katherine le pich feme de H. 8. ad licence a found un chauntery, p le nosm de chauntery de monte Calvarie extra Algate Lond'. Et e grant reason q hospital, &c. en expectancy, ou intendit, ou nominat, sert sufficient a support nosme de corporat quant le corporat m est soleint in abstract' & rest soleint in intendit & considerat del Ley; car corporat aggregate de plusieurs est invisible, immortal, & rest soleint in intendit & considerat del Ley, & p e en 39 H. 6. 13. b. 14. Dean & chapel ne poit ad pdecessor ne successor, 21 E. 4. 72. a. & 30 E. 3. 15. b. ils ne poient comit treaso, ne ee (e) utlage, ne ex-comeunge, car ils nont almes, ne poient appear en pson, mes p attorny: 33 H. 8. tit. Fealty, Brook, (f) corporat aggregate de plusieurs ne poiet faire fealty, car corps invisible ne poiet ee en pson, ne poit jurer, Pl. Com. 213. & Sre Barkleys Case 245. ne subject al imbecillities ou mort del natural corps, & dices aus cases. Chose q ne io esse mes en apparant expectancy, e regard en Ley, coe Evesq q est eslieu devant q il soit sacre, (g) enfant en le ventre sa mere devant q nest, &c. 5 E. 2. Bfe 80. 8 E. 2. Voucher 237. 38 E. 3. 30. 41 E. 3. 5. 11 E. 3. Quare impedit 158. Issint p le nosm de corporat fust a nosm un lieu en Engleterre p nosm de Jerusalem, mont Calvary, mont Carmel, Bethelm, &c. a fortiori le nosm de un spacious & specious meao, bte & actualit edifie, p le nosm de Hospital, e sufficient, car e import Xity & tainty: p q appiert q en le case al bar la fut un loyal incorporat des goynors, &c. create & institute p le dit chie le Roy, & p cösequence cibsi ascü pson en Angleterre coe Sutton poet don & grant a eur devant aucun foundat fait ou des fait p Sutton, coe fut imagin il duist ad fait devant q ils fust capable, &c. mes e est clereint respond & confuit devant, & en verity hac recitalle, est confutalle.

Quant

Dñit al 7 objectiō, est ascaboir, q̄ en Ley sont 2 manners
 de foundatiōs, lun fundatio incipiens; laut fundatio pficiens,
 & p̄ ē quatenus ad capacitātē & habilitatē, le incorporat est Me-
 taphorice appel le foundat, car ē est le cōmencement; cōe un
 foundat quasi fundamentū capacitatis, p̄ceding tout, Et p̄ ē en
 (a) 21 H. 6. 4. a. bē fuit port p̄s John Arden Abbot de S. John
 Baptist del Colchester: le Def. plead, q̄ avāt temps de me-
 moyr foundation fuit fait de m̄ le lieu p̄ nomen Abbatis Eccl̄
 & Monast' de S. John de Colchester, &c. ou foundat est prise
 p̄ incorporat; 38 E. 3. 14. 38 E. 3. 28. a. 20 H. 6. 27. a. & (b) 18 H.
 6. 16. a. en le Dean & Cānons de Wilmslow Case, & dñs auts
 liures oūe ē accord. Sed quatenus ad donatiōē le p̄m̄ done
 des revenues ē appel le foundat, & cestuy q̄ done ē ē le found
 en Ley, car pprie fundatio est quasi fundi datio, & le p̄m̄ dōe
 est fundament' dotationis seu collationis, & appellatiōe fundi
 edificii & ager continent; & ē p̄ve p̄ lestat de (c) W. 2. c. 41. (c) 2 Inst. 457.
 Si Abbates, Priores, Custodes Hospital', & aliar' domor' religio-
 sar' fundatar' ab ipso rege vel a p̄genitoribus suis alienaver'
 vel de cetero tenem' domib' ipsis ab ipso vel a p̄genit' suis col-
 lata, &c. en q̄ fuit observe q̄ en respect de tenem̄s collate ou
 dōe p̄ le Roy le meass' fuit dñt dōe fūdue p̄ le Roy: sed plus
 pleint en le clause ensuāt en le dñt ad. Si autē domus illa a
 comite, barone, vel ab aliis fundata fuerit, habeat ille a quo, &c.
 tenem̄s sic alienat' collat' fuerit bē ad recu' pand', &c. ou le collat'
 ou dōe des tenem̄s est appel le foundat. Et ou le found' port
 le dñt bē de contra form' collatiōis le bē de Prac' qd' reddat me-
 suag' qd' eid' domui collat' fuerit. Vide 9 H. 7. 26. F. N. B. 211. Vēf
 N. B. 142. 38 Ass. pl. 22. tēp q̄ dñs f' p̄m̄ tte ē le (d) found', quia
 fundare en cē sense nihil al' est quā fundare; & oūe ē accord
 14 E. 3. tit. Corrodie 5. In bē de Prohibitio, ou cōmō p̄son est
 found dūn hospital, le bē cōe appiert en le Regist' 41. a. dñt,
 Hospital' Scti Egidii leprosor' de Burio p̄ antecessor' R. filii l. ad
 sustentation' leprosor' & alior' pauper' & infirmor' ibm̄, totū in
 tēporat' & nihil in spiritual' fundat' existit, & ipm̄ semblable bē ou
 le Roy ē found, cū hospital' n̄of Scti Innocētiū juxta Lincoln de
 fundatiōe p̄genitor' n̄of Regū Angl', &c. de t̄fis & possess. p̄
 sustentatione pauper' & infirmor' in eod' Hosp. degentiū dotatū
 existat; en q̄ fuit observe q̄ ou le p̄m̄ bē dñt fundat, cō bē appel
 ē dotat, 39 E. 3. 17. b. labbot de Lira port Scire fac' dñs le dean
 de Wilshorne, ou le dean dñt q̄ il tient dñ p̄sonage (i. del foundat
 le Roy) & p̄ia aid de luy & abott, & oūe vient un bē de Proce-
 dendo & ē fuit challenge pur ē que le b̄ief dñt del patronage,

Respons al 7 Ob-
 jection.
 Devant 23. b.

(a) Br. Corpora-
 tion 30. Br. Mis-
 nosmer 31. Fitz.
 Brief 88.

(b) Fitz. Brief 75.

(c) 2 Inst. 457.

(d) Br. Present-
 ment al Esglise 39.
 2 Inst. 458. 1 Rol.
 514.

Le Case de Sutton's Hospital. Part X.

(a) 33 E.3. Aid de
Roy 103.

(b) Corody 6.
(c) Fitz. Aid de
Roy 54. Br. Aid
de Roy 15. Fitz.
Brief 573.

(d) 1 Rol. 514. Br.
Presentment al
Eglise 39. 2 Inst.
458.

(e) Devant 28. a.
30. a. 1 Rol. 513.

(f) 1 Rol. 512.

(g) 1 Rol. 512.
1 Ander. 210. Br.
Corporation 15.
Br. Prescription 12.

(h) Co. Lit. 258. a.
2 Bullst. 304. 3 Bullst.
349. Godb. 387.

Latch 29. Dav. 44. a.
(i) Fitz. Grant 36.
Br. Patent 44.

& nemp del collatiō, & suit prise tout un (a) 33 E.3. Aid 103. le Dean de Strachys Case, le Dean est dit desirer del foundatiō, & paulo post de collatiō le Roy, 8 E. 3. 56. en Strachys case p le foundatiō la tte est amortie. Vide 4 E.3. Ass. 177. 21 E.3. 60. a. (b) 24 E.3. 33. b. 34. a. 44 E.3. 23. (c) 44 E.3. 11. b. 2 E. 3. 28. le Countee de Richmonds Case, 6 H. 4. 5. 7 E. 4. 12. Et pur t suit resolve q si le Roy au incorporate les pources del dit hospital, Sutton ne besoigne daver fait aucun instrumēt comprehendant aucun foundatiō, creatiō, &c. mes son doñ del terre, estant le primer done, ust fait luy (d) fonder, & le very primer donatiō est tout le foundatiō que en Ley est requisite; & al erection d'un hospital, &c. n'est en Ley aucun chose requisite lorsque incorporate & donatiō. Et en le Report jco ap omit tous les arguments q fueront faits alarge del un part & del autre sur un cōmon ground, ou un act a un instant enuocera a divers intents distinct en temps, aucuns teignōt q le bargain & sale amouint non seulement a un donatiō, mes aury a un foundation, & auters toris viribus e contra: car appiert a vous ore sans question, q le pūm donatiō est le foundatiō. Et uncore en t aury un diversity est necessary desirer bien entendue, ce fasscaboit, qnt le Roy expresse les pōls, designe le lieu, appoint le number & done, & sur nosme p son charter, fassint q t est compleat incorporate, la le founder ou donoz natu crens a fait mes a fait donatiō sans aucun instrumēt comprehendont tens parols (e) fundo, erigo, stabilio, &c. ou auters semblable pōls; car le common pson q est founder en tiel case nad reins a faire en le oume de incorporate, mes quant le (f) Roy p son charte reserve eibien le nominat des persons, come le nosme del incorporation al cōmon person que sera le founder, la il doit nōm les pōles & declare q q nosme ils sera incorporate, & la plusors soits coment que soit de abundance il use ceur parols fundo, erigo, &c. ou autels semblables, & quant le cōmon person ad fait t e declare t en escript solong son authorite, donqz ils sont incorporate p les letters patents le Roy & nemp p le cōmon person, car il n'est forsq un instrumēt, & le Roy fait le incorporation en tiel case en m le maner come tout ad esre comprehend en les letters patents mesmes: Car voier est q nul (g) forsq le Roy soleint poet create ou faire incorporate, cōe est tenuz en 49 E.3. 4. a. 49 Ass. 8. mes (h) qui p alia facit p seipsum facere videtur. Vide p cest disctip 38 E.3. 14. b. 32 E.4. 11. Grant 30. (i) 2 H. 7. 19. a. b.

& tit. Grant 36. 20 H. 7. 7. Et qñt al 8 objection encounter le nomination del maistr, fuit resolve q̄ t̄ fuit bone; Car Sutton ad liberry a son volunt & pleasure a nominat̄ luy, & qñt il est nominate, il est maistr p̄ force des dits lres pat; & qñt cōe oze il ad est̄ nōm̄ en & p̄ les lres pat̄ in al cōmenc̄nt & l'auter part del objection est respondue devant.

Respons al 8 Ob-
jection.

Devant 24. a.

Et quant al objections encounter le bargain & sale, fuit p̄mies relate sans question, q̄ argent done p̄ les govdnoys ou aucun de eux come private p̄sons, est bon (a) considerat̄ a grant̄er la t̄te a eux en leur poit̄e capacity, mes le Indenture import̄ q̄ ils paya cōe govdnoys, & p̄ tiel nōm̄ p̄ Lenditure ils sont acquite. Aury la est (b) xli d. rent reserve al Sutton & ses heirs q̄ est bone consideration. 2. Comment q̄ en le Habendum un trust est declare, & sans question ne poiet faire le bargain & sale void, mes le cōveyance estant p̄ bargain & sale fuit sagēnt fait a declarer le confidence & trust. Et quant al 3 t̄ est clerēnt respons & resolve devant.

Respons al 9 Ob-
jection.

Devant 24. a.

(a) 2 Rol. 787, 788.

2 Inst. 725.

(b) Devant 18. a.

1 Co. 24. a. 26. a.

2 Rol. Rep. 105.

Mod. Rep. 263,

264.

Et quant al barraine objectib, cessat̄ adit̄, q̄ en pleading ceux govdnoys ne poient pleader q̄ ils fuit seisse in jure Hospitalis p̄ t̄ q̄ la ne fuit aucun hospital incorporate ne in esse al temps del incorporation, a t̄ aut̄ responde & resolve q̄ le pleader seest q̄ ils fuit seisse en leur doñ come de se (c) in jure incorporationis sue, & issint fuit plead en le dñ case del Colis de Londres en Plow. Com. Vide Fulmerstons Case auxy in Plow. Com. f. 102. vide (d) 7 E. 3. le case de Custos altaris, il count q̄ il fuit seisse, &c. in jure altaris. Et qñt aux p̄sidents q̄ fuit m̄se, fuit r̄s̄ide q̄ sont mults clauses insert en Ch̄ses, cibien del Roy come des auters, ex consuetudine Clericorum, q̄ux ne sont de necessitate Legis, mes aucuns declaratory & explanatory, & aucuns p̄lix & nugatory, sed Lex multa proficientia, & perficientia paucis comprehendit. Et tous les Justices queux argueront en cest case (s̄avant les deux avantdits) concludent encounter le Plaintiff, & ils a mutata opinione assent aury al judḡit; issint q̄ p̄ lasent des tous les dñ Justices (e) nullo contradicente judḡ. m̄t̄ fuit dñe encounter le Plaintiff; Et le Seignior Ellesmere Seignior Chancellor Dengleterre oyant tous les arguments al barre & al bench concurre aury en opinion ove les Justices. Et issint cest grant̄ aury de charity ad t̄at̄ de tiel charity q̄ doit estre en Judges, que est declare en

Respons al 10 Ob-
jection.

Devant 34. a.

(c) Doctrin. placit.

82.

(d) 7 E. 3. 51. a.

(e) Devant 24. b.

Le Case de Sutton's Hospital. Part X.

(a) W.1. cap.57.
2 Inst.264. Co.Lit.
135.a. 11 Co.76.b.

testatute de (a) W.1.c.ultim^{us} Summa charitas est facere Justiciā omnibus psonis omni tēpore quando necesse fuerit. Et est bon rule p̄ ceux goḃnoys & tous autiels corporat q̄ est expresse en testatute de Templariis anno 17 E. 2. en ceux p̄ols, Ita semp̄ quod pia & celeberrima voluntas donatorū in omnibus teneatur & expleatur & p̄petuo sanctissime p̄severet. Et Sir Thomas Fleming Ch̄r̄e aps̄ le 1 jour en q̄ cest case fust argue al bench debient maladiſſe, dont il aps̄ mourut, issint q̄ il ne unqs argue le case. Cestuy Sir Th. Fleming fust p̄imes Serjeant del Ley, & puis Solicitor Ḡn̄ial al Roigne Elz. & al Roy q̄ oze est p̄ le space de 12 ans, & adōques fust p̄ferre deſtre Chief Baron del Exchequer puis le mort de Sir William Periam, & puis advance deſtre Chief Justice Dangleſtre puis le mort de Sir John Popham; tous q̄ur liens il discharge obe grand judḡant, integrity & discretion, & il merit mult bone volunt de tous q̄ luy ſcavoit, p̄ q̄ il fust dun loctable & placable nature & disposition.

*Les causes del report
de cest case alarge.*

Quel case jeo ay report le plus alarge p̄ 3 causes: 1. Pour le cōfirmat des incorporatiōs fōndue p̄ ouſques de piety & charity devant ceux heures: 2. Pour le melieur instructiō conſtit ceux q̄ ſeront fōndue en aps̄ ſer̄ issint establi q̄ nul exception poet ſe piſe a ceut: 3. Pour le reſolutiō de ſtain opiniōs ou q̄ſiōs q̄ fueront move al barre, & q̄ur poient aſ diſturb le quiet de la Ley. En larguſſit de cest case mults auts authorites ſueſ c̄tes, p̄. 2 E.3.47. 3 E.3.83. 5 E.3.144.7 E.3.57. 8 E.3.51. 8 E.3.87. 8 E.3.208. 18 E.3.1. 20 E.3. Notability 9. 20 E.3. Corone 225. 21 E.3.35. 32 E.3. Aid 55. 40 E.3.28. 44 Aff. 13 R.2. Bf 643. 11 H.4.12.19. 14 H.4.8. 3 H.6.28. 7 H.6.13. 9 H.6.13.14.16. 20 H.6.7. 21 H.6.2. 12 E.4.17.15 E.4.1.21 E.4.32.55.57. Liure de Entr. 112.6 H.7.14. 10 H.7.16. 11 H.7.9. 11 H.7.27. 13 H.8.13. 14 H.8.29. 32 H.8. Brook Corpor. 78. 1 Mas Dyer 98. 7 El. Dyer (b) 81. le Case de College de Graiſtock, 10 El. Dyer le Case del Col. de Landebrevy, Pl. Com. Grendons Case 494. Hill. 16 El. Rot. 495. Sir Francis Flemings Case in Communi Banco.

(b) Dyer 81. pl.64.
Lit.Rep.108.4 Co.
107. b. Stile 52.
1 Rol. Rep.418.

Les noſmes des goḃernoys nominate p̄ Sutton & expresse en le dit ch̄r̄e ſueſ le trestreſſend pere en Dieu George Archeveſq̄ de Cantorbury, Thomas Seignior Elleſmere Seignior Chancellor Dangleſtre, Robert Countee de Salisburry, John Cheſq̄ de Landres, Laurelor Cheſq̄ de Ely, Sir Edward Coke Ch̄r̄e donqs Chief Justice del Court de Cōmō Plees & oze Sir Chief Justice Dangleſtre, Sir Thomas

mas

mas Foster, un des Justices del Court de Cōmon Plees, Sir Henry Hobart, donqs Attozney General del Roy & oye Chief Justice del Court de Cōmō Plees, John Overal Dean del Esglise de S. Paul in Londres, George Mountaine Dean de Westm, Henry Thursby un des Masters del Chancery, Jeffery Nightingale, Richard Sutton, John Law, Thomas Brown, & le Master del dit Hōspital p les temps esseant. Et puis le mozt del dit Sir Thomas Foster un des Justices del Court del Common Plees (q fuit un grave & reberend Judge & de grand judgnt, constancy & integrity) Sir James Altham Chivalier, un des Barons del Eschequer, fuit solong le dit chfe unanimi consensu essieu en son lieu; & le dit Master del Hōspital q Sutton ad nominate durante bene placito, nostre Seignior le Roy puis le mozt de Sutton p ses Letters Patents ad nominate pur terme de son vie.

Trin. xi Jac. Reg.

Mary Portington's Case.

2 Brownl. 65, 138.

(a) Doctrin. placit.
379.

Mary Portington port Action de Trespas vers Robert Rogers & Thomas Barley quare clausum & domum fregit apud Thome Salbyn in le County de York 20 Junii 7 Regis Jacobi, & le (a) nobel assignait fuit dun mese & crost contenant un acre in occupatione Thome Barley, &c. Les Defendants plead en barre, q Perceus Sanford At fuit seisse de tenements, &c. en fee, & euz teign del Roy come del hono^r de Tickil in socage, & 8 Maii anno 24 Regina Eliz. fist son volunt in escript, & p^r e debissa euz al Eliz. Sanford son puisne file quant el accomplist son age de 18 ans & a les heirs de son corps: 20 Julii anno 24 Regina Eliz. le dit Perceus morust, le dit Eliz. adonques de 5 ans, & puis 20 Julii anno 37 Regina Eliz. el accomply son age de 18 ans, & 25 Martii anno 38 Regina Eliz. enter en les tenements, &c. & ent fuit seisse en tail, & issint seisse p^rist a baron le dit Robert Rogers 1 Nov. anno 39 Eliz. Regina, & justifie, &c. Le Pl^r reply & dit, q le dit Perceus avoiet issue Mary son eigne file, Helen son 2^e file, & le dit Eliz. son puisne file, & confesse le debisse al dit Eliz. des dit tenements; mes ouster dit, q p^r m le volunt p^r default del issue del dit Eliz. le reñ des dit tenements fuit limit al dit Mary ore Pl^r en tail, le reñ al Helen en tail, le reñ to his 4, 5 & 6 file en tail, le reñ a son Nephew John Roades & a ses heirs males, ove others reñ ouster en tail, Provided always, that if my said Daughters or any
of

of them, or any other the person or persons before named, to whom any Estate of Inheritance in Possession or Remainder of, in, or to the said Lands, Tenements and Hereditaments, with their Appurtenances, or any of them, or any part or parcel of them, or any of them, is limited, devised or appointed by this my last Will and Testament, or the Heirs before mentioned, of them or any of them shall jointly or severally by themselves, or together with any other person or persons willingly, apparently and advisedly conclude and agree to or for the doing or execution of any act or devise whereby or wherewith the said Premises so to them entailed as is aforesaid, or any part or parcel thereof, or any Estate or Remainder thereof, or of any part thereof before limited or appointed to any person or persons by this my last Will and Testament, shall or may by any way or means be discontinued, aliened, or put away from such person or persons, and their Heirs, or any of them contrary to my intent and meaning in and by this my last Will and Testament, otherwise than for the only Jointure or Dower of any the Wife or Wives of any the person or persons before named for the only life or lives of such Wife or Wives; or shall willingly and advisedly commit or do any Act or thing whereby the said Manors, Lands, Tenements and Hereditaments or any part thereof, shall not or may not descend, remain, or come to such persons, and in such sort and order as I have before limited and declared by this my last Will and Testament, otherwise than as before is said. Then I will, limit and declare and appoint thereby, that then my said Daughter or Daughters, or other the person or persons before named, and every of them so concluding and agreeing to or for the doing or execution of any such act or devise as is aforesaid, shall immediately from and after such concluding and agreeing, lose and forfeit, and be utterly barred and excluded of and from all and every such Estate, Remainder and Benefit, as she or they or any of them should, might, or ought justly to have, claim, challenge and demand, of, in or to so much thereof, as such conclusion or agreement shall extend unto or concern, in such manner and form as if she or they, ne any of them, had never been named or mentioned in this my last Will and Testament for or concerning the same; and that then and from thenceforth, the Estate and Estates limited and given to her or them, so concluding and agreeing as is aforesaid, shall from and after such conclusion and agreement forthwith utterly cease and be determined in, for and touching so much thereof, as such conclusion or agreement shall concern and extend unto, as fully to all intents and purposes, as if she or they so concluding or agreeing as is
afore-

Mary Portington's Case. Part X.

aforesaid were dead without Heirs of their Bodies lawfully begotten as is aforesaid, And then I will and farther declare and devise, that presently after such conclusion and agreement, such person and persons to whom the Estate and Remainder doth first and next belong and appertain unto, after such of the said persons having then the actual possession thereof, which shall so conclude and agree as afore is said, by force of this my last Will and Testament shall and may enter into, have and enjoy so much of the said Lands, Tenements and Hereditaments with their Appurtenances, as such conclusion and agreement shall concern and extend unto, of and for such Estates and with such Remainders over, and with such, and in such and the same manner, condition and degree, and with such and the like Conditions and Limitations before knit and annexed unto the same by this my last Will and Testament, in such manner to all intents and purposes, as if my said Daughters, or other the said persons so concluding and agreeing, were naturally dead without such Heirs of their Bodies lawfully begotten, as is before named, and as though the said Estate or Remainder were vested in him or them for want of such Heirs as is aforesaid, any act, thing or matter before mentioned and declared in and by this my last Will and Testament to the contrary in any wise notwithstanding. Et le dit Perceus issint des tenements avant-dits seisse come JP avant dit moust ent seisse, le dit Eliz. adonques esteant deins age de 18 ans, que accomplie son age de 18 ans 20 Julii anno 37 Regine Eliz. & enter en les tenements, & ent fuit seisse en tail, le remainder ouster al dit Mary, &c. & puis prist a baron le dit Robert Rogers, & puis, 13 Aprilis anno 7 Regis Jacobi per fait indent le dit Robert & Elizabeth voluntarie, evidenter, & considerate, Anglice, willingly, apparently and advisedly, concluderunt & agreaverunt ove Christopher Bradshawe & Gervase Roberts, a suffer un common recovery des dits tenements sur bfe Dentre en le post, &c. ad intentionem ad evacuand' & auferend', Anglice to make void and put away ab eadem Maria prædict' remanere tenementorum prædictorum, accordant a ql conclusion & agreement bfe de Entre in le post fuit port vers les dits Robert & Elizabeth des tenements avantdits, ils donques esteant tenants del franktenements des premisses, & sur t un common recovery fuit ewe ds eux ove boucher ouster, & judgment done & execution ewe vers les dits Robert & Elizabeth, quel recovery fuit al oeps del dit Robert & Elizabeth, & lour heirs; & le dit JP dit q p reason del dit conclusion & agreement ad permittendam prædictam communem

munem recuperationem in forma præd. præd. Robertus & Eliz. totum statum suum, &c. de & in tenementis præd. forisfecerunt & idem status suus de & in tenementis illis cum pertiñ penitus determinavit & vacuus devenit, p q l Plaintife enter p le dit forseiture come en son remainder, &c. sur que le Defendant demurk en ley. Et cest plea fuit enter Mich. 7 Jac. Regis in Comuni Banco, & ad depend 14 termes, & ad esse argue al Barre pluis q demie 14 temps, & oze en mesme cesty terme fuit argue per les Judges, & al darraïne fuit unement resolve per tout le Court que Indgment sera done vers le JP; de q jed voil fait le pluis summarie Report p t q jeo ape publie mults Cases en mes Reports paravant a m leffet: In t jeo voil adjoindre ascuns authoritties & reasons confirmant le rule de cest Case, & affirmant les resolutions paravant, & referer le Lecteur, sans repetition, al authoritties & reasons Report per moy cy debant. Del part del JP divers objections seu potius declamations fueront faits. ¶ 1. Que del temps del seafance del act de 13 E. 1. de (a) donis conditionalibus sesque al (b), 12 Ed. 4. Taltarum's Case, la fuit nul opinion q un recovery vers tenant en tasse ove boucher ouster, liera lestate tasse sur le ptence dun seined recompence, mes in 12 Ed. 4. t fuit nobelment invent, & ne unques debant cest temps imagine p ascuns des sages del ley en tants des generations & ages incurte puis le dit act. ¶ 2. Coment q le Donor ne poit restrainer le comon recovery apres q t est permit & execute (pur t q donques le reversion ou rem est barre, &c.) uncore (come fuit agrez daut parte) il poit restrain le conclusio & agreerit a sufferer t, & mnt a pventer le barre p le recovery & a pserver s rem ou revert. ¶ 3. Tiels recoveries sont p dijs acts de Par. Ilasit marke & bñdue ove le blemish de fiction & faurty, come en le statut de (c) 34 H. 8. c. 20. ils sont stile seined and untrue recoveries, & mnt en lestatues d (d) 11 H. 7. c. 20. (e) 32 H. 8. c. 31. & 14. (f) Reg. El. c. 8, &c. ils sont nollis covinous & ewe p conclusio, & p t estoit ove ley & reason a pvid p le pserver des reversion & rem encon t iels seined & faur & covinous recoveries. ¶ 4. Que ce opinion q com recovery ne poit t restreindre p condit ou limitat fuit nobel, & de darraïne invent, & ne unques ope devat Sir Anthony (g) Mildmays Case in le 6 part de mes reports, f. 40. a. Car t fuit admitt dce restraine en le Case de Countee de (h) Arundel, An. 17 El. f. 342, 343. Du le dit Countee en l rēps le Roigne Mary dona le Manor de Haseiber Bt an en l Countee de Dorset p Indent al Cho. jades Countee

(a) Doct. & Stud. 1. 1. c. 27, 28, 29, 30, 31, 32. Plowd. 2. b. 13. b. 53. b. 59. a. 160. b. 178. b. 235. b. 246. a. 250. b. Manxels Case 3. a. ib. 6 Co. 40. a. Pref. ad 4 Rep. 1. b. 1 Co. 44. b. 48. a. 88. a. 96. a. 103. a. b. 131. b. 2 Co. 46. b. 3 Co. 8. a. 85. b. 88. b. 89. a. 4 Co. 4. b. 5 Co. 14. b. 6 Co. 41. a. 7 Co. 21. a. 32. a. 41. a. 8 Co. 35. b. 72. b. 9 Co. 105. a. 11 Co. 72. a. 12 Co. 81. 1 Rol. Rep. 48, 153, 155, 162, 385. 2 Rol. Rep. 197. 317, 318, 383, 410, 417, 1 Leon. 83, 212. Rast. Ent. 360. b. &c. Hob. 293. 2 Inst. 332, &c. Savil 67, 88. Popham 34, 128. Cr. Car. 42, 43, 45, 533. Co. Lit. 18. b. 19. a. b. 24. a. 60. a. 224. a. 262. a. 327. b. Carter 23. Larch. 67. Godb. 308, 367. O. Benl. 163. Vaugh. 365. F.N.B. 211. b. 3 Bulstrode 186. Ver. N.B. 100. a. 143. b. Rastal Tayl 1. f. 440. b. 441. a. Lit. Sect. 13, 362, 441. 2 Anderf. 11, 14. (b) Co. Lit. 361. b. 372. b. 1 Co. 131. b. 6 Co. 40. b. Apres b. & 38. a. Godb. 308. 1 Bullst. 159, 160. Hard. 209. 12 E. 4. 19, 20, 21. (c) 34 & 35 H. 8. c. 20. 1 Anderf. 46, 141, 142. 2 Co. 15. b. 16. a. 52. a. 6 Co. 55. a. Moor 195. Cro. Car. 430. Co. Lit. 335. a. Plow. 555. a. Hob. 299. 2 Rol. Rep. 417. (d) Winch 43.

Mary Portingtons Case. Part X.

de Northumberland, & a les heirs males, de son corps, sur condition q si p̄ad. Comes aut h̄ered. masculi de corpore suo exeuntes, inf a^l, aliquod recuperare vel eos permitterent vel discontinuarent : Et en Argument de Scholasticas Case Pasch. 12 Eliz. Plow Com. 483. le dit point del restraint dun coñon recoberie ne fuit unques move, & s̄ t̄ fuit pense a effoyer obe le honoz & grabtie del court que cest point ad esse cy sovent foits argue al barre, & pur ceo a oze lez Serjeants disoyent que fuit ripe pur Judgment apres tiel mature deliberation. Et en cest Case tous les dits objections fueront confute & p ceo le point en Judgment confirme. ¶ Et quant al p̄mier, 2 Questions fueront move & resolve, le p̄m̄, que Judgment done vers (a) t̄si en tail obe voucher & recompence en value, liera lestate tail, nient obstant le dit act de 13 Edw. 1. soit le recoberie sur bone title ou nemy. 2. Que le Judgment done en tiel Case pur le t̄si en tail daver en value lia lestate taile coment que nul recompence soit eue. Et pur ceo, quant al p̄mier de ceux questions, appliert per nostre livres q lopinson que un recoberie vers tenant en tail obe voucher barrera lestate tail, & ne fuit restrain per lestatute de donis condic, ne fuit novelment inven^t en (b) 12 Edw. 4. mes sovent foits affirme pur ley per les plus sages del Ley que unques fueront, car Sir William Thirning en temps le Roy H. 4. Chief Justice del Bank An. (c) 12 H. 4. 13. b. dit que les plus sages del Ley que unques fues (& q̄st il avoit le meilleur ley que fuit unques) fues en le reigne le Roy Edw. 3. queur aury fues p̄es al feasant del Statute. Laysomus donques aboyer coment la ley fuit tenus in diebus illis en cest point 15 Ed. 3. tit. Brief. 324. per recovery en value per tenant in tail lestate tail est barre, & il avera Formedon del terre issint recober en value. Et obe ceo accord 42 Edw. 3. 53. car la est tenus que in aucun Case home avera b̄ede de Formedon del terre que ne fuit unques doñ, come si tenements en tail sont perdus, & le t̄si in tail recober auter terre in value, liue avera Formedon des terres recober in value, & uncore ceux terres ne fues doñ. 44 Edw. 3. 21, 22. Octavian (d) Lombard's Case, tenant in tail grant rent charge a un in consideration que le grantee asant droit al fre in tail release a luy, ceo liera les issues in tail, 48 E. 3. 11. b. in Jeffrey Bencher's Case, recovery in value p̄ t̄si in tail lier le tail, & Formedon gist del fre recoñ in value: & obe t̄ accord 1 E. 4. f. 5. (e) 5 E. 4. 2. b. Et t̄ aury appliert p̄ semblabl̄ cases: car si tenant (f) en tail alien obe garf, & laysa assets a discender, ceo est barre al issuer per reason del garrantie & assets discend, mes

(a) 2 Ro. 396.

(b) 1 Co. 131. b.
6 Co. 40. b. Co. Lit.
361. b. 372. b.
Godb. 308. 1 Bull.
159, 160. Hard.
209. 12 E. 4. 19,
20, 21.

(c) Co. Lit. 304. b.

(d) 1 Co. 94. b. 96. b.
Doctor & Student
49. a. Co. Lit. 343. b.
Plow. 436. b. 466. a.
Plow. Manxwels
Case 14. b. 15. a.
1 Ro. 842. Br.
Charge 4. Br. Tail
6. 2 Brownl. 67.
2 Bull. 43. Hard.
209. 384. Raym.
349. 3 Keb. 287.
(e) Apres 43. b.
Br. Voucher 111.
Br. N. C. 70. Br.
Recovery in value
33.
(f) Co. Lit. 393. b.

mes neque le garf sauns lassets, neque le garf & assets sans Judgement en Formedon barrera lestate tail ; car si lissue (sans Judgement done) alien (a) lassets, son issue recouera la terre en tail, mes apres Judgement done que il sert barre en Formedon, les issues en tail, auxy sert barre : Et obe ceo accord Temps E. 1. tit. Garr' 89. 34 E. 1. tit. Garr' 88. 11 E. 2. tit. Garr' 83. 4 E. 3. 24. Henry Sommers Case. 3 E. 4. 14. 40 E. 3. 9. 14 H. 4. 39. a. 24 H. 8. tit. Tail, Brook 33. 4 Maria, (b) Dyer 139. Et en le case de common Recouerie la est un Judgement vers le tenant en tail, & auter Judgement vers le vouchee daber en value, & pur ceo ceux resolutions & opinions en ley producent le Judgement en 12 Ed. 4. que ne suit d'aucun nobel invention, mes prove & approve per le resolution des sages del ley tous temps puis le dit act tanque al 12 E. 4. & les Judges les sages del ley, adonques perceivant queux (c) contentions & mischiefs avoient crept en le quiet de la ley per ceux fettered inheritances, sur consideration del dit act & de former exposition de ceo per les sages del ley tout temps puis le dit act, done Judgement que in tiel case lestate tail sert barre. Quant al 2 question en le primer objection, est digne de consideration que le Judgement done p tenant en tail daber value, est barre al estate en tail, coment que nul recompence soit rendue en value, & ceo appliert en Dyer 23 Regina Eliz. 376. (d) Tenant en tail suffer un Common Recouerie obe Common voucher, & mozt devant execution ewe vers tenant en tail, & lissue en tail enter, le recoueroz poet enter sur luy per reason del recouerie en value : Et obe ceo accord Shellies Case in le 1 Part de mes Reports f. 106. Et in le Marques de Winchesters Case, lib. 3. f. 3. a. si (e) tefi en tail suffer Common Recouet (coint erroneusement) & puis disseise le recouet & mozt, son issue ne sert remitt, car lestate tail fuit lie p le (f) Judgement daber ouster en value, coint q en veritie nul recompence poet estt ewe. Et in Manxels Case Pl. Co. fult. (g) si tefi e tail soit, & estranger port seint Præcipe qd reddat vers luy, & il vouch a garf, & le demandant p default del vouchee ou p son confession recouet vers tefi e tail & il ouster in value vers le vouchee, & devant execution le tefi e tail mozt, & le terre (h) descend a son issue, uncoze le demandant poet enter ou suer execution vers lissue, & lissue ne unques faur. Et le recouerie la, p e q il ad, ou poet aver assets, car sil doit faurer le recouerie, adonques il doit retepner la terre tail & aver execution del assets auxy, &c. & issint cõe la est report

(a) Co. Lit. 393. b.

(b) Dyer 139. pl. 32. B. N. C. 66. Vet. N. B. 144. a.

(c) Co. Lit. 19. b.

(d) Dyer 376. pl. 26. 1 Co. 94. a. 106. a. Co. Lit. 361. b. 2 Rol. 396. Pl. 55. b. 3 Keb. 699.

(e) Co. Lit. 349. b.

(f) 7 Co. 39. a.

(g) Pl. Manxels Case 14. b.

(h) Lit. Sect. 690.

fuit prise per le Seignior Mountague & autres Justices in le Starre Chamber en un matter la en temps del Roy E. 6. issint q̄ ou le act de W. 2. dit, quod finis ipso jure sit nullus, nous posomus dire qd̄ quoad communē recuperationem, &c. actus ipse ipso jure sit nullus. ¶ Quāt al 2^e Objection, est absurd a dire q̄ le recoūte s̄ ne poet estre phibit pascun conditiō ou limitatiō, & uncore q̄ le conclusion & agreemēt a lussier recobery serē phibit; & tiel condition a phibiter un conclusion ou agreement sabour dun nobel device ou invent, car tanq̄ oze de tardisse temps nul unques oia pascun condition ou limitation a phibiter (a) goings about, ou ascun cōclusiō, ou agreement, mes sont tout ousterment discomus al ley: & pur c̄ le dit act de W. 2. recitant le mischiet, dit, per factum tamen & feoffamentum eorum quibus ten't fuit datū sub conditione exclusi fuer', &c. issint q̄ les seafors del dit act doient estre tare de graund ignorance, & q̄ le dit act ne fuit necessarie si le going about ou conclusion de aliener puit aber estre phibit: car donques quant home ad fait done a un & les heirs de son corps, il puit aber adde un condition, que si le donee en tail al common ley post prolem suscitata ad gone about ou conclude de aliener, q̄ adonques le donour reentee, & issint daver preserve son possibilitie de reverter, & issint incouter ceo pvision puit aber estre fait p tiel preventing condition, & pur c̄ ne fuit ascun necessitie q̄ le dit act de donis condicionalibus serē fait: & uncore Sir William Herle (b) Chief Justice del Common Banke en 9 E. 3. f. 22. b. dit q̄ ils fueront sage gents queux fieront cest Statute; & q̄ Sir William mesme fuit al sealaunce del dit statute applert en 41 E. 3. tir' Garr' 16. Et en 5 E. 3. 14. a. mesme le Chief Justice dit, Nous veiomus ceux q̄ fieront lestatute; & ouster dit q̄ le Roy (c) Edw. 1. (q̄ per assent de son common council en Parliament fist le dit act) fuit le plus sage Roy q̄ unques fuit, & le Roy & tout le Parliament phibit factū & feoffament (car cē imaginat de going about ou concluding ne fuit adonques ne long temps puis hachee) & issint en tous succeding ages lissenat m̄ del tēn en tail qd̄ este phibite p condit, cōe in 33 Ass. p. 24. Tēps R. 2. Richils Case, Lit. f. 163. (d) Tēps H. 4. Thirring 21 H. 6. 33. b. (e) 10 H. 7. 11. a. 13 H. 7. 23. a. b. 21 H. 7. 11. a. b. Et fuit bien obse in cē case, q̄ a un estate tail il y ad 3 man's dez (f) incidēts, ascūs p le cōmon ley, auts p act d̄ pliant, & ascūs p cūst: p le cōmon ley sont tielz q̄ ne sōt restrein p lestat, & ne poiēt ēe restrein p asc condit, cōe (g) dower & tenancie p le curtesie apres issue,

(a) Cro. Jac. 697.
698.

(b) Co. Lit. 19. a.

(c) Co. Lit. 19. a.
392. b.

(d) Co. Lit. 377. b.
Lit. Sect. 720. 6. Co.
42. b.

(e) Br. Cond. 239.

(f) 6 Co. 41. a.
Co. Lit. 224. a.
2 Brownl. 67.

(g) 1 Rol. 418.
2 Brownl. 67. 6 Co.
41. a.

issue, sont incident a un estat tail, & ne poient estre restrain per condition, Vide 22 E. 3. 17. Auxy lestate de luy & del ten en tail apres possibility sont dispense de (a) wast, issint (b) col- (a) 2 Brownl. 67.
lateral garc est barr al estat tail, & (c) common recovery auxy, 1 Rol. 418. 2 Ro.
& nul de ceux poient estre restrain per aucun condition ou limi- 826. Lit. Sect. 34.
tation per statute ley, come a fait Leases per lestatute de (d) 2 Inst. 302. 6 Co.
32 H. 8. cap. 28. & a le levier fine per lestatute de 4 H. 7. cap. 41. a. 9 Co. 139. a.
24. & 32 H. 8. cap. 36. a. barrer issues, & nul de ceux que sont 11 Co. 80. a.
incidents a son estat per Act de Parliament poient estre re- Doctor & Student
strain per condition; car quant home fait done en tail il lib. 2. cap. 1. Fitz.
tacite done ceux incidents a ceo, & pur ceo a restrainer eur N. B. 59. b. Fitz.
per condition ou limitation terra repugnant. Car mittomus 1 E. 3. Wast 125.
que home fait done en tail, & ouster grant que il poet fair 10 H. 6. 1. b.
leases p ans ou vies solongue le dit act, ou a levier fine obe (b) 1 Rol. 418.
proclain solong les acts en tiel case a barr les issues, purvieu Co. L. 224. a.
touts foits q il ne fert leases, ou levier fine, nul voit denier, (c) 1 Ro. 418.
mes tiel proviso sert repugnant; per consequence en l'auter 2 Brownl. 67.
case quant tiels incidents sont tacite implie car, (e) expressio 6 Co. 41. a. Hob.
eorum qua tacite insunt nihil operatur. Per custom, a graunt 170. Co. L. 223. b.
terres per copie, &c. al volunt le seignior solongue le custom 224. a.
del manoir, &c. Et l'opinion de Littleton quant al dit case dun (d) 1 Ro. 418.
common recovery fuit cite en son chapter de Conditions (f) (e) Hob. 170. Mod.
f. 84. apres que il ad dit que feoffee en fee ne poet estre restrain Rep. 190. Lit. Rep.
de alienation, il adde, Item si testis sont dones en le tail sur 111. Hard. 92.
condition que tenant en tail ne ses heires ne aliefont en fee, 1 Rol. Rep. 310.
ne en tail, ne pur auter vie, forque pur lour vies demeur, 2 Rol. Rep. 393.
tiel condition est bone, & le cause est (que est mult deffre ob- Palm. 433. 437.
serbe) que quant il fist tiel alienation il fait le contrary al en- 4 Co. 73. b. 5 Co.
tent le donoir, pur que lestatute de W. 2. cap. 1. fuit fait, per 11. a. 8 Co. 56. b.
que lestates en tail soient ordain; que est tant a dire come sil 145. a. 11 Co. 60. a.
ust dit contrary al intent del act de W. 2. ou lentent de donoir Co. Lit. 191. a.
deins le purvieu del dit act, & (g) comon recovery nest pas 205. a. 2 Inst. 365.
contrary al dit act ne al intent del donoir deins le purvieu de c: 2 Sanders 351.
mes lentent de Littleton est q tenant en tail poet ee restrain 2 Bull. 131. Latch.
de discontinuance ou en fee, ou en tail, ou p auter vie, & is- 25.
sint il m en le pchein clause ensuant explain luy m. s. & qnt (f) Sect. 362.
il fait tiel discontinuance il fait contrary al intent del donoir 1 Rol. 418.
Et qnt al 3. objection & aspersio dun scandal sur common (g) Co. Lit. 223. b.
recoveries (que est un des main pillars queux supportont
lestates & inheritances del Kingdom) fuit refuse, q la ne fuit
unques aucun chose p le prudence de home cy bien devise, ou
cy surement establie sur ley & reason quel le ingenie & craft

Mary Portingtons Case. Part X.

de ceux que sont subtils & malvise n'ad pas abuse : & par ceo appert per le preamble del dit act de 34 H. 8. que quant le Roy done terres en tail a ses loyal & loyal serbants & subjects, entendant non solement a presert & avancer le donee, mes les heires en sanke del leur corps, al intent que les heires de leur corps adront en special memoire le profit que ils ont per le service de leur auncessors, & per ceo ils mesme le mieur encoze a fait semble service a leur sobersaign seignior le Roy, fuit bien fait per le Parliament a tater le Donees en suffering de leur & seigned recoveries a subbetter l'entent del bountie & done le Roy per disherison de leur issues, quia confirmat usum qui tollit abusum, & uncoze tant fuit le force dun common recovery en tiel case al

(a) Co. Lit. 372.b.

(a) common ley devant le dit act de 34 H. 8. q'estate tail per un common recovery fuit barre coment que le reberison fuit al Roy, & rien pult remedier ceo fors un act de Parliament : & obe ceo accord 33 H. 8. tit. Tail Br. 41. in Plow. Com. 555.

(b) 11 H. 7. c. 20.
1 Co. 102. a. b.
Winch 43.

Et quant al case sur l'estatute de (b) 11 H. 7. fuit responde, q' quant le baron par advancement de la feme obe competent joynture, & preferment del heires de leur 2 corps engendrez, ad cause estate destre fait a luy mesme & la feme en tail, & puis le mort del baron, les femes a disheriter les issues de leur former barons, suffer recoveries & convey la terres al estrangers del sanka le baron, tiel recovery fuit digne per le Parliament destre note obe la mark destre suffer per cobin : l'act del feme, ou quant el est sole, ou de luy & son 2 baron est & cy odious que recovery obe sur bone title vers eux per cobin est fait void per mesme l'act, & par ceo n'est destre resemble al case al barre, & uncoze nul remedie fuit en tiel case sur un comon recovery tanque le dit act de Parliament fuit fait. Ainsi en les dits acts de (c) 32 H. 8. & 14 Eliz. quant common recovery

(c) 32 H. 8. cap. 31.
14 El. cap. 8. Co.
Lit. 362. a. 1 Co.
15, 16.

fuit obe vers tenant pur vie pur le prejudice de ceux queux avoient le inheritance, ceo bien pult estre term cobinous & per colusion : Et uncoze en mesme le case quant tenant pur vie, le remainder al A. en tail, le remainder a B. en tail, &c. obe divers reiss ouster, & tenant pur vie suffer common recovery en que il vouch A. & il le common vouchée, ceo liera

(d) 3 Co. 60. b.
Après 43. b. Co.
Lit. 362. a. Cr. El.
562, 570. Co. Ent.
667. a. Moor 690.
1 And. 175. Winch
43.

tous les autres reiss, car nul cobin ou collusion port estre suppose quant le prochain en reiss en tail que ad le immediate inheritance est vouché, come fuit adjudge en Jennings Case Trin. 38 El. rot. 2302. quel case, ayant grand assistance obe le case al barre, jeo ay report prochain après cest case. Et q'nt al

al

al dit case del Counte de (a) Arundel An. 17 Reg. Eliz. ppi-
merment, tiens est parle a cea per aucun que argue en l' case,
issint que la n'est aucun authorite par eux queur citont ceo :
Aurp en mesme le case un recovery est intend estre restrayne,
mes nemy recovery obe vouchier, &c. come en chescun common
recovery la est. Et en divers acts de Parliament common
recoveries avoient receive allowance & advancement : Et par
l' estatute de (b) 7 H. 8. cap. 4. recite q divers cibien Nobles
com auters ont fustier recoveries vers eux de divers de leur
manors, &c. par performance de leur volunts, par assurance
des foyntures a leur femmes, &c. mesme lad en approbation de
common recoveries done remede a tiels recoveries en divers
Cases. Et S. Germaine en son primer livre del Doct. & Stud.
cap. 26. approve common recoveries a lier cibien en con-
science come en ley. Et per l' estatute de 23 Eliz. cap. 4. est pur-
vien, que par avoirding del daunger al assurances des terres
& par advancement de common recoveries, que aucun com-
mon recovery ne fust avold par aucun want de forme en pa-
rols & nient en le matter de substance. Nota Lector, Semper
in (c) *fictione juris*, subsistit *aquitas*, & contra *negantem prin-*
cipia non est disputandum : Et en veritte nul doit estre oye a
disputer encontre les legal pillars des common assurances des
tites & inheritances des subjects. Et al Parliament tenus en
le reign del sades Roign Eliz. en le grand Case inter T. Ver-
non & Sir Edward Herbert (que fust debate per council eru-
dite devant les seigniors del Parliament) la Hoord, un At-
terbariffier a Council obe Vernon que fust barf per un com-
mon recovery) temeratement & obe grand malveillance in-
vey encount common recoveries, nient sachant le reason &
foundation de eux, que fust obe grand gravitie & obe aucun
acrimonie repobe per Sir James Dyer adonq Chief Justice
de cest Court, que dit que il ne fust digne estre del profession
del ley que ausast parle encontre common recoveries queur
fueront les finews des assurances des inheritances, & foudue
sur grand reason & authorite, sed non omnis capit hoc ver-
bum. Et quant al dit case de (d) *Scolastica*, jeo respect mult le
reporter & attribute dur honoz & reverence aux Judges qur ar-
guont en le dit case: mes amicus Plato, amicus Socrates, sed ma-
gis amica veritas ; car le resolution en le dit case est foudue sur
2 authorities in ley, lun en (e) 29 Ass. pl. 17. & l'autre (f)
F. N. B. f. 201. c. qur authorites esteant duement consider ne
garraunt my le collection ou conclusion que est fait sur eux

(a) Ant. 37. a. Dyer
342, 343. pl. 55.
56. 3 Co. 43. a.
6 Co. 41. a. Jenk.
Cent. 242.

(b) Co. Lit. 104. b.
Dr. & Stud. f. 45. a.
Vaugh. 48. Dyer
31. pl. 213, 141.
pl. 46. 19 H. 8. 12. a.
Br. Meln 23.

(c) 11 Co. 51. a.
Co. Lit. 150. a.
Palm. 354.

(d) Pl. Com. 403. a.

(e) Pl. 412. b.
1 Rol. 472, 473,
474. Br. Devise 16.
Br. Condition 111.
Apres 40, 41, a. b.
Dyer 127. pl. 56.
(f) Plowd. 413. b.
(ar- 414. b. Apres 412.

Mary Portingtons Case. Part X.

Devant 40. a.

(arguendo en le dit case) mes, a dire le verité, le contraire. Car quant al dit case de 29 Aff. p. 17. est cite en cest man-
ner, Home seisse des terres en fee devisable, euz devise a un
pur term de sa vie, & que il serroit Chapleyn (ou le libze
alarge est que le devise fuit a un Clerk pur vie, sur condition
que il serra Chapleyn & chauntera pur son alm) issint que
apres la decease les dits tenements remaineront al commu-
naltie de mesme le ville (s. de Langston) a trover un Chap-
leyn pur mesme les tenements, & mozt, & le devisee esteant
sufficient pur estre Chapleyn euz tenuist pur 6 ans & ne fuit
Chapleyn, & le heir de devisez luy ouste, & le devisee port Af-
fise, & le heir plead al Affise; & tout cest matter fuit trobe
per l'assise, & les Justices exiteront l'assise intant come ils
posent a dire pur le Plaintiff, & al barraign ils disoient que
le p^r fuit seisse & disseisse: sur quel case issint cite les Justices
come la est report issint collect, car il sembloit al Court la que
le limitation que il serra Chapleyn & chauntera pur luy, ne
fuit condition pur le infreinder de que le heir poet entrer, car
per ceo le remainder serra defeat, &c. In quel case sont
2. grand misprisions, lun en le citing, l'auter en le application
de ceo: 1. que le dit devise fuit al dit Clerk sur expres parols
de condition que il serra Chapleyn, come appiert devant:
l'auter en le application: que ceo ne serra prise pur un condi-
tion, mes pur un limitation, & a cest purpose le case fuit cite:
& sans question ceo cobient estre ou condition ou limitation,
& si ceo fuit admit deff limitation donques n'est possible pur
le Plaintiff en l'assise a recover, car donques son estate si fuit
limitation devant le porter del assise fuit acuelment deter-
mine, car tiel est le nature dun (a) limitation a determini le-
state sans entry, & donques le franktenement en ley fuit best
en le cominalty de Langston, car estranger prendra advantage
dun limitation, & per consequence ne fuit possible que le
Plaintiff que ad perde son estate per force dun limitation
recovera en l'assise: mes en le libze ceo est prise pur un condi-
tion, car la Briton dit, que ceuz en remainder ne poient enter,
car ceo est condition, & appiert que le heir ne poet enter unde
sequitur que le rem ad (b) destroy le condition; car le libre
dit, que le heir ne puit enter & aver la terre solement pur le vie
del Plaintiff. Per que appiert que en tiel case parols de
expres condition (que sont omit en le citing del case) ne serf
prise pur limitation, mes puis tost hors per le limitation del
remainder ouster, car quant il ad parols de condition, le
ma-

(a) Co. Lit. 214. b.

(b) Dyer 127. b.
1 Rel. 471.

manner del devise est de entendre que l'heir poet enter come est expressement dit en le livre, & pur ceo ne sert paise pur un limitation a doner benefit a cesty en remainder, & sert daungerous a faire construction encounter expresse parols. Mes si le case ust este come en le dit case de Scolastica est cite, s. que il devise la terre a un pur vie & il que sert Chapleyn, poet estre pluis colour a dire que ceo sert limitation per construction, pur t̄ q̄ ils ne sont neq̄ parols de expresse condition, ne legal parols de limitation, & pur ceo la peradventure le ley sert construction de eux issint que ils poient prendre effect, come in le case enter (a) Hamond & Wellock report per moy in le 3 part de mes Commentaries, f. 20, 21. cest parol (paying) amountera a un limitation en un volunt per construction, pur ceo que en ley nest aucun parol ou de condition ou limitation, & pur ceo en un volunt serbera cibien pur lun come pur l'auter a supplier l'entent del devisoz, & issint l'authorite del livre en (b) 29 Ass. p. 17. est encounter ceo que fuit cite en Scolastica Case. Et per ceo poies veier (bone Lecteur) come daungerous est a fonder un opinion sur aucun (c) Abzidgment, cōe en auter lieu jeo ay observe: Car Fitzh. en Abzidg le case de 29 Ass. tit. Ass. 281. (d) abzidge ceo sauns aucun parols de expresse condition, come ceo est cite en le dit case de Scolastica, mes Brook tit Condiō 111. abzidge ceo destre sur expresse condition, sed (e) melius & tutius est petere fontes quā sectari rivulos. Et quant al dit case en (f) F.N.B. est cite en le dit case de Scolastica en cest manner, home devise terres en Londres a la fēe sur condition q̄ si el marry q̄ les terres remainera a son fīs en tail, & pur default de tiel issue l'remainder a les dōit heires del donoꝝ en tail, la feme p̄ist baron, & el & le baron occupie la terre, cesty en remainder moꝛust sans heire de son corps, le dōit heire del donoꝝ aveē especial b̄ief de Ex gravi querela, &c. Issint appiert que cesty en remainder avera advantage del condition si ceo soit enfreint, mes ceo sert per boy de suer cest action, & nemy de enter per force de cest condition nient perfoꝛm, quel b̄ief appiert in le Register. Et les Justices disoient, que les parols del condition la mentioned ne sont properment condition mes parols de limitation, issint que le sence est tiel, home devise tert a la feme p̄ terme, si el cy longement continueē sole, & si el marrie le remainder en taile, le remainder a les dōit heire, issint que le mariage est le limitation la que determine lestate, & issint le remainder commence sur lestate sine la. Quel case issint mise per Fitzh.

hōꝛs

(a) Cro. El. 204.
3 Co. 20. b. 2 Leon.
114. Cro. Jac. 57,
527, 592. 2 Bull.
273. Latch. 9.
Bridg. 138. Mod.
Rep. 86. Vaugh.
271. Carter 93,
226. Swinb. 113,
114. 2 Rol. Rep.
219. Lane 76.
Goldsb. 134.
(b) Devant. 40. 2.
(c) 5 Co. 25. a. Pref.
4 Rep. Post. 117. b.
(d) Plo. 412. b.

(e) Apres 118. 2.

(f) F. N. B. 201.
C. Devant 41. 2.

Mary Portingtons Case. Part X.

hoys del brief original en le Register fust tout ousterment mis-
 prise en 2 points : 1. pur ceo que le devise a la feme en le case
 mise in F. N. B. fust sur expresse parols de condition, mes in-
 specto registrof. 246. le devise fust sur apt parols de limitatio,
 s. Habendū sibi ad totam vitam suam si ipsa in pura viduitate
 sua tenuerit (& nemy sur expresse parols de condition, come la
 est cite) ita quod si ipsa alicui maritaverit, vel ad aliquem virū
 se traxerit in fornicatione, tunc mesuagiū præd. cum pertiū I. &
 hæredibus de corpore suo legitime procreatis remaneret, & si
 idem I. sine hærede, &c. obierit, tunc mesuag præd. cum per-
 tinenā ad rectos hæredes ipsius W. reverteret. 2. Du Fitzh. dit,
 que le droit heire ne poit enter, est clere que le droit heire bien
 puit enter, pur t̄ q̄ il ad le reversion per discent, & nemy per
 voy de (a) remainder. Et seo aye vietwe un Report en Hill
 3 & 4 P. & M. q̄ Dyer Serjant moba en le Common Bank,
 William Butts (b) Doctor de Physick fust lessie de divers Ma-
 noys, Terres & Tenements in fee, & avant issue 3 firs, Wil-
 liam, Edmond & Thomas, per son volunt en escript devise part
 de eux a la feme pur sa vie sub conditione quod ipsa educabit
 pueros testatoris in eruditione & bonis moribus, le remaind-
 er al Thomas son firs en tall, & le reversion en fee discente al
 William son eigne firs, le condition fust enfreint, le question
 fust si le heire entef pur le condition, ou Thomas entra come
 pur infreinder dun (c) limitation, ou si le condition soit destruy
 per le limitation del remainder ouster : Et fust resolve p̄ Sir
 Robert Brook Chief Justice, & totam Curiam, q̄ clerement
 ceo n'est limitation, car sont expresse parols de condition, &
 lentent del testator fust q̄ son heir q̄ tousz soitz est a prendre
 advantage dun condition enter & (d) defeate lestate del f̄e,
 mes son entent ne accorde obe ley, car il ne poet defeater le-
 state pur vie sinon que il defeate le remainder, & pur ceo per le
 limitation del remainder ouster le (e) condition fust destruy :
 mes en tiel case son intent ne unques fust que cesty en le re-
 mainder entra pur le condition infreint. Nota Lecteur, la
 sont en ley apt & legal parols cibien de limitation come de
 condition, apt parols de (f) limitation sont quamdiu, dummo-
 do, dum, quousque, durante, &c. Vide 14 Edw. 2. tit. Grant. 92.
 rent grant hoys del manoz de Dale quamdiu le grantoz de-
 murē la, Vide 7 E. 4. 16. quamdiu fuer' amicabilis. 27 H. 8. 29. b.
 3 E. 3. 15. a. & 3 Aff. p. 9. home lessa terre dummodo le lessie pas-
 era 20. ¶ 37 H. 6. 27. lease est fait a uu feme dum sola fuerit, 9 E.
 4. 29. b. home fait feoffement en fee tanq̄, i. quousque le feoffoz
 ad

(a) Dyer 127 a.
Hob. 30.

(b) 2 Rol. Rep. 422.

(c) Dyer 117. b.

(d) 1 Rol. 473,
474.

(e) Dyer 127. a.

(f) Co. Lit. 214. b.

ad pay a luy certaine deniers, (a) 21 Aff. pl. 18. Vide 13 El. (b) Dyer 290. acc', Pl. Com. 414. (c) 35 Aff. p. 14. lease pur ans si le lessé vbera cy longement, 14 H.8. 13. lessa fress tanq il soit pmote a Benefice, &c. Lit. c. Condition f. 90. (d) durant le coberture; tous ceux & mults auters sont parols de limitati- on, per force de queux lessate est determin sans entre ou claim. Parols de (e) condition sont Sub conditione, Ita quod, Si con- tingat, Proviso, &c. Vid. Lit. c. Conditions 74 & 75. 3 H.6. 7. a. b. 27 H.8. 15. Dyer 28 H.8. 13. 4 Maria Dyer 139. 15 El. Dyer 318. 32 H.8. Dyer 47. mes ceux pols ad effect, ea intentione, ad solvendū, ou autiels semblables, ne sont condition en feoff- ment ou grants sinon q soit en case le Roy, ou en un darreine volunt, come fuit resolve Pasch. 18 Regina Eliz. per tous les Justices del Common Bank. Et issint vous mieur entenderez vostre librez ē (f) 38 H.6. 33. in labbesse de Sions Case, 31 H.8. tit. Conditions b. 19. 8 E.2. tit. Affise 412. 5 E.2. Br. Condition 204. F.N.B. 131. 41 (g) E.3. 17. b. 41 Aff. pl. 3. 35 H.6. 7. & f. 57. p Moile, 7 H.4. 22. Sir Simon Beverleys Case, Doct & Stud. L. 1. c. 20. 10 E.3. 44. 32 E.3. Annuity 30. 8 H.6. 23. b. Pl. Com. in Browning & Beestons Case, 141. a. Dyer (h) 7 E.6. 79. 3 E.6. (i) ibid. 66. Mes ē case d grant executoie (Pro) (k) fait con- dition, come grant dun annuity p consilio impendendo (l) 41 E.3. 6. a. b. 19. (m) 38 H.6. 27. 9 E.4. 20. 21. disstity ē chose (n) executed & executoie Dyer 23 El. 369. fuit auxy observe que en le case de Scholastica, John Clark, q fuit issint suppose destre restrain pimes levy sine ql sine (p) aucun chose q appiert en le record ou en le case report) fuit sine al comon ley, & adonques est discontinuance & tort, & pur ē puit estre restraine per con- dition. Et Hill. 36 Regina Eliz. rot. 339. en Bank le Roy en mesme le case de Scholastica fuit resolve, pur le matter en ley per Popham Chief Justice & 2 auters Justices del Bank le Roy enconter le former opinion; mes Judgement fuit la done sur un incurable imperfection en le verbia.

¶ Quant al 4 objection, q cest opinion q tenant en tail ne poet estre restrain a suffer common recovery, fuit nobel & de darrein (o) invention, appiert per les authozitis devant cite & per Litt' auxy q ē nest nobel mes bien prove per nostre aun- cient & darreine librez, & est bien dit per un, quod novum ju- dicium non dat jus novū, sed declarat antiquū, quia (p) judi- cium est juris dictum, & per judicium jus est noviter revelatum, quod diu fuit velatum. Et voier est q la ley aucun soit dormant, & un Judgement ceo awake, car (q) dormit aliquando lex,

moritur

(a) Br. Affise 230.
Br. Condition 106.
(b) 2 Co. 57. b.
1 Ro. 388. 2 Ro.
798. Noy 122.
Jenk. Cent. 288.
(c) Br. Estates 36.
Br. Tail 20. Fitz.
Tail 17. 5 Co. 9. b.
(d) 5 Co. 116. a.
Co. Lit. 234. b.
(e) 2 Co. 70. b.
71. b. 72. a. 3 Co.
21. a. 5 Co. 78. b.
1 Jones 169. Godb.
418. 1 Ro. 407.
410. Cr. El. 385.
486. 2 And. 20. Co.
Lit. 203. a. b. 204. a.
Pop. 116. 117. 118.
119. Goldsb. 130.
131. Moor 571. 404.
Hob. 41. 42. 231.
Lit. Sect. 328. 329.
330. 331. Br. Con-
dition 7. 10. 19.
3 H.6. 6. b. Dyer
13. pl. 65. 138. pl.
12. 30. Br. N. C.
152. Hard. 10. 11.
Lit. Rep. 109. 219.
(f) 38 H.6. 34. a.
Br. Condition 96.
(g) Br. Condition
20.
(h) Dyer 79. pl. 46.
1 Ro. 408. 2 Bullst.
290.
(i) Dyer 65. pl. 8.
1 Ro. 408. Co. Lit.
204. a. 1 Leon. 246.
(k) Cr. El. 274.
Co. Lit. 204. a.
2 Sand. 350. 1 Ro.
435.
(l) Br. Annuity. 7.
(m) Br. Condi-
on 95. 38 H.6. 26. b.
(n) Winch 117.
Dyer 369. pl. 53.
9. Co. 50. a.
(o) Devant 37. 38.
Co. Lit. 361. b.
(p) Co. Lit. 39. a.
226. a. 236. a. 2 Inst.
359. 573. 3 Bullst.
39.
(q) Co. Lit. 279. b.
2 Inst. 161.

(a) Apres 113. b.
 (b) 1 Co. 120. a.
 6 Co. 43. a. 11 Co.
 80. a. Pop. 70.
 1 And. 309. Jenk.
 Cent. 276. Moor
 546. 3 Keb. 177.
 (c) 1 Co. 61. b.
 2 Co. 52. b. Pop. 5.
 4 Leon. 150. Moor
 154. Jenk. Cent.
 250. 1 And. 282.
 Goldsb. 5.
 (d) 1 Co. 86. a.
 6 Co. 43. a. Cr. El.
 378. 1 And. 346.
 2 And. 142, 149.
 Moor 592, 471,
 633.
 (e) 1 Co. 85. a.
 6 Co. 43. a. Moor
 364. 4 Leon. 83.
 1 And. 186. 2 And.
 7. Bridg. 135.
 1 Jones 59.
 (f) 1 Co. 83. b.
 6 Co. 40. a. Moor
 601, 633. 2 And.
 134. Winch. 56.
 3 Keb. 177.
 (g) 6 Co. 40. a.
 Co. Ent. 678. b.
 Moor 632.
 (h) 9 Co. 127. b.
 Swinb. 112. 2 Rol.
 Rep. 468. Bridg.
 137. Lit. Rep. 259,
 286, 347.
 (i) 1 Co. 127. a. b.
 (k) Hob. 224.
 Winch. 106.

moritur nunquam. Et ceo fuit le sole point sur q Judgement fuit done en cest case vers le Plaintif. Et fuit observe q ceux perpetuities fueront nee desouth aucun infortunate (a) constel- lation, car ils en cy grand nombre de suits concernant eux en tous les Courts en Westm, ne unques avoient aucun Judgement done pur eux, mes mults Judgements done en- counter eux, viz. Hill 31 Eliz. in leschequer Chamber in (b) Chudleighs Case, Mich. 34 & 35 Eliz. (c) Hunt & Capel's Case in leschequer Chamber, Hill 37 Eliz. inter (d) Cholmley & Hunt in Comuni Banco, & Hill 37 El. inter (e) Jermin & Arscot en mesme le Court, Hill 30 Reg. El. en (f) Corbets Case in Comuni Banco, Mich. 3 Jac. Regis in Bank le Roy Sir Anthony (g) Mildmay's Case, & (h) Sondaies Case in le Court de Gards 8 Jac. Regis; queux tous cases jeo aye report, & en tous queux Judgement fuit done encounter le perpetuities, & per queux ceux fettered inheritances le franktenements des subjects soient mise a libertie solonq leur original freedom.

Mes fuit move aury, si admittant q tel conclusion a suser common Recoverie puit estre restraine p condition si conclu- sion dun feme covert en cest case p fait indent terra forfeiture de son estate. Et fuit object q quant feme levie fine ou suser recoverie ove boucher, le ley q enable luy al principal enable luy a faire declaration del use de t, come est agree en (i) Blich & Colgates Case; & issint si enfant, ou home de non sane me- moire, levie fine & fait Indentures a declarer le use de ceo, les Indentures ne serent void p infancy ou non sane memoire, pur t q ils sont enable al principal, & pur t ne serent disable pur laccessorie. Et issint fuit resolve en le Court de Gards per Wray & Dyer Chief Justices en case de Hugh Lewing q fuit (k) Ideot, & issint trove per office, & ad levie un fine al un Winne, & declare le use de t p Indentures, q fuit pretend de- stre al use del Ideot & ses heirs, pur t q les Indentures come fuit object fuet void, mes non allocatur pur le cause avantdit. Et pur ceo en cest case le conclusion per baron & feme per Indenture a suser common recoverie fuit intretender del condit. Mes le Chief Justice teigne, q cest conclusion dun feme covert fuit de nul force ne aucun cause de forfeiture: & pur ceo aucun des maximes del ley sont destre consider, que nul feme covert serent barr per son confession de son Inheri- tance ou franktenement, mes quant el est examine per due course del ley, 15 E. 4. 8. (1) 44 E. 3. 28. a. Vide 14 E. 4. 5. Et nul ad power de examiner feme covert sans brief, Vide

(1) Br. Coverture & Infancy p.

Vide 21 E. 3. 43. b. John de Holbornes Case: & c'est le cause
 q si baron & feme conust un Statute ou Recognizance, &
 est void quant al feme, coment q el surbise son baron, come
 fust tenus Pascha 17 Eliz. en le Countesse de Lennox Case. (a) 1 Rol. 347. Fitz.
 Estoppel 68. Reg.
 150. b. Br. faits en-
 rol. 11, 17. Br. Co-
 verture 47. Br. N.
 C. 109. Kelw. 18. b.
 14 E. 3. execution
 73.
 (b) Co. Lit. 380. b.
 Moor 75, 76, 460.
 Kelw. 10. b. F. N. B.
 104. k. Cr. Jac. 59.
 Yelv. 88. 1 Anderl.
 25. pl. 54. 1 Rol.
 305. 2 Inst. 673.
 2 Rol. 573.
 (c) 1 Rol. 347 42 E.
 3. 7. a. Br. coverture
 & infancy 9. Sta-
 tham Fines 1.
 2 Rol. 395. Palm.
 226.
 (d) Co. Lit. 380. b.
 Cr. Car. 309. con-
 tra. 1 Jones 318.
 2 Rol. 395, 573.
 1 Rol. 731, 751,
 752. Stil. 246.
 Mod. Rep. 48, 49.
 1 Leon. 211. Hob.
 196, 197. 2 Saund.
 94, 95. 1 Sid. 321,
 322, 446. 2 Inst.
 484. Cr. Eliz. 323.
 Bridgm. 75. Palm.
 225, 226. Jenk.
 Cent. 299. Noy
 140. Herl. 171, 172.
 Leys Rep. 82, 83.
 (e) 1 Rol. 346. 18
 H. 6. 27. a. 9 H. 6.
 33. b. 7 Co. 8. a. b.
 Hob. 225. 7 H. 4.
 23. a. 2 Rol. 30. Br.
 estoppel 55. Br.
 fines levy de ter-
 res 33. 1 Jones 457
 17 Ass. 17. Br. co-
 verture 77. Br. fines
 levy de terres 75.
 17 E. 3. 57, 78.
 (f) 2 Rol. 395.
 (g) 5 Co. 119. a.
 Doct. placit. 259.

John de Holbornes Case: & c'est le cause
 q si baron & feme conust un Statute ou Recognizance, &
 est void quant al feme, coment q el surbise son baron, come
 fust tenus Pascha 17 Eliz. en le Countesse de Lennox Case.
 Ilint si baron & feme (a) covert conust un fait destre inrol,
 & c'est inrol, & est void quant al feme covert, Vide 29 H. 8.
 tit. Faits inrol Br. 14. & 7. E. 4. 5. a. 16 H. 7. 5. b. & 21 E. 3.
 43. b. & le reason est, pur ceo que nul tiel brief est pen-
 dant vers le baron & feme sur q la feme poit estre p la ley gra-
 mine. Des (b) si infant conust un statute ou recognizance,
 ceo nest void, mes voidable per Audita querela durant son
 minority; & le cause del diversity est, p c q le Judge en
 case de infant poet p inspection canuster son age, mes nemp
 le quel un feme soit covert ou non. Et lusage ad este tous
 spits sur un (c) common recovery vers baron & feme de ex-
 aminer le feme, & a granter Dedimus potestatem a pren-
 der sur examination son conusance, come en case del fine,
 car la est brief sur que el poit examiner, vide 44 E. 3. 28. a.
 mes common (d) recovery vers infant coment que il appiert
 per gardela, ne sera tenant, car tenant nad tiel disposing
 power sur le terre come le baron & feme ad, mes est tout ou-
 stement disable per ley a convey ou transfere son inheri-
 tance ou franktenement aux autres durant son minority;
 & en ceur joues un common recovery appiert a nous de-
 stre common conveyance & assurance del tres. Des si feme
 covert leby fine solement, ceo lpera luy & les heirs si le
 baron ne enter & avoird lestate del conusee, pur ceo que el
 fust examine & ad power sur la terre. Des le reason que
 ne poet estre forfeiture ou infunder del condition en le case
 al barre est, pur ceo que le conclusion per Lenditure sole-
 ment & maintenant per le pretence del Plaintiff fuit de-
 termination del estate de Elizabeth, & donques le recovery
 ne fust dalcun effect, p c q lestate de Elizabeth fust deter-
 mine p le dit conclusion per Indenture devant le recovery,
 & nest material le quel il fust aucun recovery ou nemp, Car
 le pleading est que p le conclusion lestate determine; Ilint
 q en cest case ne poet estre dit, come fust affirme, q quant
 baron & feme fustier (f) common recovery ils esteant enable al
 principal ne terra disable al accessory, car icy cest proviso dis-
 able euz a sufferer un recovery, & encounter Lenditure la fee
 puit pleader (g) Non est factum, & p c nest plus q baron

& feme ont conclude sans aucun recoy. Mes cest point ne fust pas resolve, p^r q^u Judg^{es} fust done sur l'auter.

Trin. xxxviii Eliz.

Rot. 2302. in le Bank le Roy.

Jennings Case, cite in le Case paravant.

(a) 1 Ander. 275.
3 Co. 60.b. Moor
690. Devant 39.b.
Cr. El. 562, 570.
Winch 43. Co. En-
tries 667. nu. 16.

Inter (a) Willseman & Crowle le case fust tel: Ch. Willseman ad issue 2 firs, Will p^r sa p^rim^e fée, & Ch. Will p^r un file p^r Dorothy s^r a fée, & esteant seise des tres en fee tenus en socage, p^r s^r volunt en escript devise eux al dit Dorothy la feme p^r vie, le rest a Ch. s^r firs in tail & moyst, p^r q^u la feme fust seise p^r vie, le rest a Ch. le firs, & le reber^t del fee descend al dit Will, le dit file p^rist a bar^{on} Jennings, & puis lestat de 14 Regia^{re} Eliz. c. 8. comon recoy^{er} fust ewe vers le dit Dorothy esteant f^r p^r vie, en q^u Ch. en rest en tail fust vouche, & en q^u Thomas vouch ouster le comon vouche^r sans aucun assent del dit William le heir en re^{ss}on, le q^ul recoy^{er} fust al oeps del dit Tho. & ses heirs, & puis Ch. moyst sans issue; Jennings en droit la feme esteant loer del entier sanke a Ch. enter, sur q^u William le Plaintif ent, sur q^u Crowle le Def. p^r commandit de Jennings re- enter, sur q^ul reentry lacion de Tris fust port, Et si le dit comon recoy^{er} avoit bar^{on} le reber^t del dit Willia^m nient obstant le dit act de (b) 14 Regia^{re} Eliz. fust le q^ustion. Et in cest case 4 points fust resolve. ¶ 1. Que al comon ley recoy^{er} s^r test p^r vie ove vouche^r sur voier gar^t & recoy^{er} in value llera cest^{es} in le rest, come les liures sont in 19 E. 3. tit. Recovery in value 20. 23 E. 3. ibid. 13. 44 Ass. pl. 35. & (c) 3 E. 4. 2.b. & le reason est, p^r q^u particular estate & lestate en remainder sont forsq^u un estate, & un gar^t poit extend al ambi-

(b) 1 Ander. 275.
Moor 690. 3 Co.
60.b. Cr. El. 562,
570. Winch 43.
Devant 37. a.
2 Leon. 62.
(c) Raym. 322. Br.
voucher 111. Br.
recovery in value
33. Br. N. C. 70.
Devant 37. b.
2 Leon. 65.
4 Leon. 127, 131.
Rastal Recoveries
4.

ambideux, & p ceo le recompence en value enurerà al ambideux estates. Et appiert p le preamble del act de (a) 32 H.8. cap. 31. q recovery suffert p tenant en real action vers tenant pur vie p cobin & nemy sur voyer garf, q t ou barrera cestuy en le remainder ou reversion, ou al meins tollera euz de lour entre. Mes oze ad esse resolve en (b) Pelhams Case in le primer part de mes Reports, q common recovery etwe vers tenant p vie soleint est forfeiture de son estate, p t q common recovery nest a oze forsq common conveyance ou assurance. Vide (c) 5 Aff. pl. 3. (d) 14 E. 3. Receit 245. (e) 22 Aff. 31. (f) 18 E. 3. 28. b. ¶ 2. Fuit resolve, q nul act ad esse fait a pserver aucun reverc ou reñ expectant sur estate tail; Car un estate tail est estate q p possibility poet endure a tous jours, & tñ en tail ad power a barrer cestuy en reñ ou reversion, & p t lestatute de W. 2. (g) c. 3. (q fuit fait a m le Parliament q le dit act de (h) donis conditionalibus fuit) p le pserveration de cestuy en le reñ ou reversion don Resceit a euz, & pvide p euz en ceuz poiss, Eodem modo si tenens in dotem, p Legem Anglias, vel aliter ad terminum vitæ, vel p donum, in quo reservatur reversio, fecerit defaultam, admittantur hæredes vel illi ad quos spectat reversio, & coment que lestatute dit p donu, q en iett extend al done en tail, uncoze les Judges, scient cibien le possibility del continuance del estate tail come son power a docker cestuy en reversion ou remaind, extend les dits general parols per construction al estate del donee en tail aps possibility disue extinct, q en verity nad estate forsq p vie, & q nest pas forsq pt del done, car estate de inheritance fuit done, & oze le donee nad forsq estate p vie; & obe t accord 20 E. 3. Resceit 17. 39 E. 3. 8. b. 33 H. 6. 22. & le liure en 2 E. 2. tit. Resceit 147. est malement report, & est destre intend de tenancy en tail apres possibility, & nemy dun estate tail; & p t en 42 E. 3. fol. 12. b. le case est notable, Terres fueront render per fine al Robert & Alice la feme en tail, le remaind at Thomas en tail, savant le reversion al donoz, Robert mozt sans issue, Alice la feme fuit implead en Precipe quod reddat, q fuit default apres def. pur que un Simon le droit heire del donoz que ad reversion en fee, surmict que cibien Rob. come Thom fuet mozt sans issue, pria destre receve: Le def. counterplead le Receipt p ceo q Thomas que fuit en le reñ en tail aboit issue John que uncoze est en pleine vie, Et le counsel ove le def. font 2 objections encount le Receipt,

(a) Cr. El. 562. 3 Co. 61. a. Co. Lit. 362. a. 1 Anderson 38. 2 Leon. 61, 62. 4 Leon. 126, 127, 128, 129. Raf. al Recoveries 3. (b) 2 Leon. 60, 67. 1 Co. 14, 15. b. 4 Leon. 123, 133. 1 Anderson 227. Moor 271. Poph. 23. Co. Lit. 356. a. 362. a. Vaugh. 51. 2 Brownlow 170. 2 Co. 74. a. 1 Rol. Rep. 304. 3 Co. 4. b. 5 Co. 40. b. (c) 3 Co. 4. b. 2 Leon. 60, 63, 66. 4 Leon. 124, 126, 128, 131. Co. Lit. 356. a. 362. a. Br. entre congeable 49. Br. forfeiture de terre 29. 1 Rol. 853. 1 Co. 15. b. (d) P. 14 E. 3. resceit 135. 1 Co. 16. a. 3 Co. 4. b. Co. Lit. 252. a. 2 Leon. 62, 66. 4 Leon. 126, 132. (e) 2 Leon. 61, 63. 4 Leon. 128. (f) 1 Rol. 853. (g) 2 Inst. 342, 343 & c. (h) 4 Leon. 129. 2 Inst. 331, 332, & c. Rastal tail 1.

priuerunt que lessate del donee ne fuit immediate ni estate del Alice, mes non allocatur, car la est dit q fuit adjudge q si terre soit lease pur terme de vie, le remainder p un aut pur fine de vie, savant le reversion a le lessor, q cesty en reversion ad este receibe nient contrisheant le meane remainder: & voier est q sicut fuit adjudge in 11 E. 3. tit. Resceit 118. ou le case fuit, q la fuit tenant p vie, le reversion al E. p vie, le reversion del fee a R. tenant p vie fuit implead in Præcipe, & vivant E. R. pua destre receibe, & la Hill object encounter le resceipt, q lessature done q cesty a q le reversion est immediate apzès le mort del tenant p vie serrà receibe, & nous adomus bien que cesty a quel le reverb fuit ou il aver meisme estate p vie, aver pozt brief de (a) Wast, & ne fuit receibe a cest brief; q case de wast fuit bien agree, & le diversity passe int e le case al barre, p e q en lacion de Wast, il fuit a le meisme estate, mes icy il est savor le meisme estate: & 4 E. 2. tit. Resceit 160. acc. Le 2 objection en le dit liure de 42 E. 3. fuit, p e q la fuit un meisme estate tail (q le liure appel fee mediate) inter le tenant p vie & cesty en le reversion en fee, & ou la est fee mediate, ecy en reversion p force del dit statute ne serrà receibe; & sicut le case la rule q il ne fuit pas receivable, & la diversity est passe ou le reff est limit ouster p vie, la celuy in reversion serrà receibe, & la cause est p e q celuy in reff nad plus haut estate q ad le tenant meisme, mes in le case icy il ad un fee mediate percenter celuy q pua ore, & le tenant q pua aver estre receibe si il est venus, & puis le def. dit q il navera nul tiel John in rerum natura. Nos Nota Lecteur, si cesty in reff in fee & cesty en le meane estate p vie a meisme le teps pñont destre receibe, le meane estate p vie in respect de immediatnes & primity serrà pferre devant le reffion in fee, car les pñs del statut eskeant gesial, p. admittant heredes vel (b) illi ad quos spectat reversion, le ley q tous soit respect order de primity, pferre le petit & pcheyn estate, soit e in reff ou reverb p vie, devant le grã & remoto estate in fee. Et obe t accord 24 E. 3. 32. a. b. in Pierce de Grimsteads Case. Et (c) le statut q dona bñ de Error & Attaint a cesty in reffion durant le vie del tefi p vie, &c. ne done aucun tiel remedy a cesty en reffion expectant sur estate tail. Vide le Marquis de Winchester Case in le 3 part des mes Reports.

Et lessature de (d) 32 H. 8. c. 31. pñeu soleint p le pferbat del reverb ou reff expectant sur estate p vie, &c. & nemp sur estate tail

(a) 2 Co. 92. b. 5 Co. 76. b. Co. Lit. 54. a. F. N. B. 58. c. 59. h. Moor 18. 1 Jones 51. Cr. Jac. 688. 50 E. 3. 4. a. 2 Rol. 829. 2 Inst. 301. 11 Co. 81. b. Lit. Rep. 256.

(b) 2 Rol. 436. (c) Reg. 1222. 9 R. 2. c. 3. Vet. N. B. 112. a. b. F. N. B. 108. a. 3 Co. 4. a. b. 61. a. 2 Bullst. 15. Palm. 251, 253. Dyer 1. pl. 5. Cr. El. 289. Dyer 90. pl. 5. 4 Inst. 51. (d) Cr. El. 562. 3 Co. 61. a. Co. Lit. 362. a. 1 Ander. 38. 2 Leon. 61, 62. 4 Leon. 126, 127, 128, 129. Rastal Recoveries 3.

tail, a cest effect q̄ tous recoveries p̄ agreeint d̄s tenant p̄ le curtesse, tenant pur vie, en dower, tenant en tail apres possibility disue extinct, dascun terres, &c. dont le tenant terra seisse come tenant p̄ vie, tenant p̄ le curtesse, ou tenant en tail apres possibility disue extinct, terra void vers ceur adonques en reversion, &c. issint que p̄ cest statute nul provision fuit fait pur le preservation del reversion ou remainder expectant sur estate tail. ¶ 3. Fuit resolve q̄ sundry evasions fueront invent hoys del dit statute de 32 H. 8. & p̄ ceo il puis cest act tenant pur vie ust fait lease pur ans, & le lessee pur ans ust fait feoffint en fee, & le feoffee ust suffer common recovery, en que le tenant pur vie fuit vouchee, & en que il vouchee ouster le common vouchee, q̄ t̄ fuit hoys del purvieu del act de 32 H. 8. pur deux causes, 1. Pur t̄ q̄ le tenant pur vie al temps del recovery vers le feoffee ne fuit seisse pur vie, mes ad forsq̄ droit, 2. Cest en le remainder ou reversion nadoit adonques, s. al temps del recovery le remainder ou reversion, mes soleint droit, car tout fuit debest per le dit feoffint del lessee pur ans, & issint fuit tenuis en le Common Bank, Trin. 5 Eliz. & 15 Regine Eliz. que en auttel case ou (a) tenant p̄ vie en tiel common recovery vient eins come vouchee, q̄ t̄ fuit hoys del statute de 32 H. 8. come Bendloes Serjeant ad report. Et t̄ fuit le cause, come aux appiert p̄ le preamble del dit act de 14 Eliz. del seafance de m̄ laet, viz. Where divers Persons being seised, or that had been seised, &c. for life, &c. have permitted and suffered themselves to be vouched by other Persons by Agreement or Covin between them, &c. to the great prejudice of those to whom the Reversion or Remainder thereof hath appertained or ought to appertain. ¶ 4. Fuit resolve q̄ laet de (b) 14 El. ne extend a p̄served aucun reverb̄ ou rem̄ expectant sur un estate tail ou t̄ p̄ vie est implead & t̄ en tail est vouch, & p̄ t̄ tous les p̄ts del act fuit consider: 1. Le title del act est, For avoiding of Recoveries suffered by Collusion by Tenant for Life, &c. & c̄ title nertend a le case al bar t̄ p̄ deux causes, 1. Recovery ne poit estt̄ dit p̄ collusion ou t̄ en tail est t̄ le recovery, t̄ en fait, ou t̄ en ley come vouchee, car la ley, come incident a s̄ estate, ad fait la t̄re & tous rem̄ & reverb̄ subject a s̄ pleasure, & il ad droit & power a barrer eur tous, & jus & fraus nunquā cohabitant; & p̄ t̄ le title del act esteat for avoiding of Recoveries by Collusion, &c. ne poet extender al recovery ou t̄ en tail est p̄ty ou p̄sby. Le 2 p̄t del act est

(a) 1 Co. 15. a. Benl in Kelway 211. a. N. Benl. 132. pl. 194. 4 Leon. 128. 2 Leon. 63. 1 Jones 423. Co. Lit. 362. a. Palm. 230.

(b) Dev. 37. a. 39. b. Cr. El. 562. 570. Co. Lit. 362. a. 3 Co. 60. b. 1 Ander. 275. Moor 690. Winch 43. 2 Leon. 62.

le preamble, & s'entend a le case al barre p quatre causes :
 1. Les poys del preamble s'ent, whereas divers Persons being seised, or that have been seised of Lands, &c. as Tenants by the Curtesie, Tenants in Tail after possibility of Issue extinct, or otherwise only for term of life, or Estates determinable upon life or lives, s'ent q'issent del seaisors del act s'uit d'avoier recoveries vers tenant p vie s'olent, & nemy quant tenant en tail est pty ou ptyby : By Agreement and Covin between them ; & (come ad estre dit) covin ne poist estre quant tenant en tail est pty ou ptyby : 3. Against the same particular Tenant ; & en cest case le recovery s' le particulier tenant ne barre le reversion, mes le vouchee del tenat en tail & s' vouchee ouster : 4. Have permitted and suffered themselves to be vouched, &c. s'ent q' le vouchee del tenant p vie, & nemy le tenant en tail, s'uit intend estre prohibite.

Le 3 & principal part del act est le corps del act : 1. That such Recoveries against such particular Tenants, &c. & en le case al barre le recovery s' tenant p vie ne barre le reversion, mes le subgiste done p le tenant en tail d'ad en valuer, & lya le reversion, come ad estre dit devant : 2. Or against any other with voucher of any such particular Tenant ; q' s'entend pas cleresment a le case al barre, entant q' tenant en tail & vouchee : 3. Le proviso, That all and every such Recoveries (q' relate al recoveries p covin, &c. mention devant en le titre preamble & corps del dit) q' s'entend ou tenant en tail est vouchee, & q' tiel recovery liera ceux que assent de record sont parols affirmatibe & ne diminish le vigor & force dun common recovery, en que tenant en tail est vouchee, & en que si vouchee que p le Ley ad power sur le terre, come ad estre dit devant : & serra graundment mischievous si cest act ne serra s'ent p'isse, ou p'ortus si cest act serra expound encounter le bzies & lention auxy de ces ; car le common assurance est, que tenant en tail de terre obe remainder ou reversion ouster, bargain & vende la terre p fait indent & incolle a un auter vers q' le bzies Dentre in le post est port & si vouche le teli in tail, & si vouche ouster, Dieu defend q' lesstates des subjects queux dependont sur tiels recoveries serra trabe en question, & un le bargainee en tiel case n'ad forsq' estate determinable sur le vie de tenant en tail. Auxy si tenant p vie soit implead en Præcipe, & fait default apres default, & cestuy en remainder en tail est receibe, que vouche ouster le common vouchee, & liera lesstate tail, & le remainder ou reversion auxy : & obe ceo accord

cord Knyvetons Case, 8 Eliz. Dyer (a) 152. Vide (b) Owen (a) Dyer 252. pl.
 & Morgans Case. Et judgment en le case al barre p totam 97. Co. Lit. 78.2.
 Curiam nullo contradicente fuit done p le Def. encounter le 6 Co. 77.2. 2 Rol.
 Pl, sur q le Pl port. Bxat de Error, & les Justices del 395. 493. Goldsb.
 Common Bank & Barons del Eschequer (c) conquere obe 271 3 Co. 6. b.
 les Justices del Bank le Roy, q le dit recovery ad barre le (b) Goldsb. 26.
 reversion del Pl, mes p insufficient pleading le judgment 4 Leon. 26. 93. 222.
 fuit revers. 3 Co. 5. a. 6. b. Moor
 210. 1 Anderson
 162. pl. 108. Cr.
 Car. 321. 1 Jones
 324.
 (c) 1 Anderf. 276.

Mich.

Mich. x Jac. Reg.

Lampets Case.

² Brownlow 172.
Cr. Jac. 460, 461.
² Rol. Rep. 218,
315. Jones 15, 17.

Richard Lampet p^{re}sent by et de Ejectione firmæ vers
Margery Starkey, & count sur demise fait per
William Lampet & Eliz. la feme per leur indent
18 Junii anno 8 Jac. dun mese, 24 acres de terre,
8 acres de p^{re}ce, & 20 acres de boys obe les appartenances,
en Calve Hamborne en le County de Glo^{re}st^{er} pur 4 ans, &c. &
count dun esent^{ment}, &c. & ad^{re} le vie de Eliz. Le def. plead de
rien c^{ul}p: & les Juro^{rs} done un special ad^{re} q^uit al dit mesu-
age & un dim^{is} acre de fee p^{re}cel des testis abant^{es} d^{is}, & q^uit
al residue ils trobont le def. nient c^{ul}p, & q^uit al dit mesuage
& dim^{is} acre ils trobont, q^u John Sir Lumley, Rich. Lewke-
no^z, & John Lampton fue^{re} se^{er}se del dit mese & dim^{is} acre
en fee, & p^{er} leur Indenture 14 Maii anno 35 Eliz. demisont
al John Horice le puisne le dit mese & dim^{is} acre pur le
t^{er}me de 5000 ans, p^{er} force de q^u il enter & suit ent possesse, &
11 Octob. 38 Eliz. fist son testam^{ent} & darrein volunt en escript,
& p^{er} t^{er} debile a John Horice son pier le dit mese & dim^{is} acre
p^{er} le t^{er}me de natural vie del dit John Horice le pier, & puis
son decease le rest del dit mese & dim^{is} acre al Eliz. le soer
del testato^r & a les h^{er}es del corps del dit Eliz. & fist Jo. Ho-
rice s^{on} pier s^{on} sole ex^{ec}ut^{or}, & 20 Octob. an. 38 Eliz. mo^ust del
dit mese & dim^{is} ac^{re} possesse, puis q^ul mort John Horice le
pier assume sur luy le charge del execution del dit testam^{ent} &
darrein volunt, & en le dit mesuage & dim^{is} acre de terre enf^{er}
&

& fuit ent possesse put Lex postulat, & le dit Eliz. pnt a baron Willm Caploz, quodq; postea, s. 26 Julii an 1 Jac lide Willm Taylor & Eliz. ad speciale instantia prad' Joham Morrice sen, p quoddam scriptu suu dederunt, concesserunt, remiserunt, relaxaverunt, sursum reddiderunt, assignaverunt & transposuerunt, Anglice *yielded up* dicto Joh. Morrice sen totu prad' mesuag' & prad' dimid' acf pastura cu ptiu, una cu toto recto, tif, infesse, tēpore & termino suis de & in eisdē, habendu & tenendu totum dictu mesuag' & dimid. acf pastus prad' cu ptiu prafat Joh. Morrice sen p & duran toto statu, sine & termino prad. Will. Taylor & Eliz. p & duran residuo dci termini quinq; missu anū tunc venturozū; Et puis John Morrice le pier 1 Octob. an. 2 Jac. p Indent demise le dit mese & dimid' acf al dit Margery Starkey ore def. p 10 ans & puis le dit William Caploz morust, & le dit Eliz. pnt a baron le dit Willm Lampet, & puis 15 Novemb. anno 7 Jac. John Morrice leigne morust, aps qd mort le dit Willm & Eliz. entrent in le dit mese & dimid' acf & font le demise al pl' en le count mentio, p force de q le pl' enter & fuit possesse tanqz le def. luy ejet. Et si super tota materia, le dit Margery fuit culp ou nep fuit le qstion. Et cē case fuit sovent fois in leval fmes argue al barf, & ore in m cestp fme p les Judges : & leffet de tous lour arguments fuit, primerint, in chescū matt in ley status quæstions, i. causa dubitationis le cause del doubt ou qstion, & primerint bēe cōsider : & en cest case le cause del doubt est, intant que l'entier fme sub modo est en John Morrice le pier, & il setra puny p wast, & acf de Det gist ds luy p le rent, cōe fuit resolve p tout le court in cē case, Vide Weldon's Case in Pl. Com. 524. a. b. acc. si le dit grant ou releas fait al dit John Morrice le pier adō. ques esteant possesse del entiere fme cōe est avantdit, poit barer le dit Eliz. p t q el ad forsq possibility & neqz infest neqz droit in possession, reberē ou rest; & t fuit le grand qstion del cause. Des 2 auts qstions, cōe appiert aps, fuet move en le case, qur sans difficulty fuet resolve. Cest case del devise dun lease p ans, a un p vie, & puis son mort al aut durant le residue del fme, ad produce septem quæstiones vexatas & spinosas. 1. Quant home esteant possesse de tre put ans devise le use ou profits del tre, ou la tre mesme a un pur vie & puis al aut durant le residue del fme, si le devise dun chattel puis le mort del pnti devisee fuit bone; & adjudge come appiert in Mannings Case in le 8 part de mes Reports, que tsel

(a) executory devise fuit bone; & issint fuit tenus p tota curia

en

(a) Moor 635,
748, 758. Cr. Jac.
198, 460, 461.
Swinb. 134, 135.
8 Co. 95, 96. a.
2 Rol. Rep. 218,
220. 2 Brownl. 173
Cr. El. 796. B.N.C.
209.

(a) 8 Co.96. a.

(b) 1 Rol. 620.
3 Bulst. 123. Bridg-
man 55. Cr. El. 504
Plow. 524. a.(c) 1 Rol. 619. Cr.
El. 223, 347, 348.
Moor 350, 351.
Goldsb. 185. Plow.
520. a. Dyer 277.
pl. 59. 1 Jones 59.(d) 2 Brownl. 173,
175. 1 Bulst. 192,
193. Raym. 146.
Cr. Jac. 510.(e) 2 Brownl. 172,
173 Cr. Car. 479.(f) 2 Rol. 405.
Br. Stat. Merchant
25. Br. Execution
82. Br. Release 37.
2 Brownl. 174. Co.
Lit. 265. a. Hob. 46.(g) 2 Brownl. 174.
1 Co. 111. b.(h) Co. Lit. 265. a.
Lit. §. 446. lib. 1.
f. 111. b.(i) Br. Release 10.
Br. feoffment de
terres 10.

en le argument de cest case. Le 2^e question ad estre, si le ex-
ecutoy devise puis le mort, &c. soit bone quant le terme
mesme (& nemy luse ou occupation) suit devise al p^{re}mi pur
vie, &c. & puis al auters; & adjudge que en tel case auxy le
devise executoy soit bone, come en le dit Case de Manning ap-
piert; & issint soit resolve in le argum^{en}t de cest case p^{er} tous les
Justices. Le 3^e q^{ue}stion ad estre, si le p^{re}mi devisee, aps assent
fait p^{er} le executoy, soit (a) barrer le executoy devise esstant
forsq^{ue} possibility, ou nemy; & adjudge q^{ue} nemy; & issint soit
unem^{en}t agree in largum^{en}t de cest case: Le 4^e q^{ue}stion ad estre, si
assent del executoy al p^{re}mi devisee (b) enurera a lous, intant
q^{ue} il ad t^{er} p^{er} voy del executoy devise & nemy p^{er} rem; & ad-
judge q^{ue} t^{er} p^{er} voy; & issint soit gr^{at} p^{er} omnes in largum^{en}t de cest case.
Le 5^e q^{ue}stion ad estre, quant le devise est ut supra al executoy p^{er}
vie, & puis al aut^{er}, &c. & l'execut^{er} ent^{er} (c) genal^{er}it, ad estre ad-
judge q^{ue} il ad t^{er} come execut^{er}, q^{ue} est son p^{re}mi & general autho-
rity, & nemy come legato^{re}, sans claime ou demonstra^{re} de s^{on}
election, com^{en}t q^{ue} le testato^{re} ne soit indet al aut^{er}; & issint soit
rule p^{er} le court in largum^{en}t de cest case. Le 6^e q^{ue}stion ad estre, si
tel executoy interest poet ee gr^{at} al estrang^{er} dur^{an}t le vie del
p^{re}mi devisee, & adjudge q^{ue} nemy, c^{on}e appiert en le Case de
(d) Carter cite in Fulwoods Case en le 4^e pt de mes Rep. f. 66.
& obe t^{er} accord l'opinion de tous les Justices en largum^{en}t de
cest case. ¶ Et oze le 7^e q^{ue}stion est, si tel (e) possibility poet
estre extinguis^h p^{er} grant ou leas a cesty en possession. Et soit
object, q^{ue} le dit possibility ne poet estre releas, car intant q^{ue} estate
durant le vie de home est puis q^{ue} asc^{en}d^{en}t t^{er}me p^{er} aus, & q^{ue} le t^{er}me en
le case al barre est devise al John Horrice leigne, p^{er} s^{on} vie, len-
tire t^{er}me est en luy determinable p^{er} son mort, issint q^{ue} le dit
Eliz. naboit riens fors^{us} possibility q^{ue} ne soit ee releas, c^{on}e
in 27 E. 3. tit. Executio 130. & (f) 25 Ass. pl. 7. si conusee dun
sue^{ur} ou recognizance releas al t^{er}me tout s^{on} droit en la t^{er}re, un^{es}
il s^{on} executio: issint si le (g) s^{on} in le vie s^{on} pier releas al dis-
seisor son pier, & puis le pier mort, c^{on}e releas ne barrera le
s^{on} s^{on} t^{er}me q^{ue} le s^{on} in le vie la pier nad fors^{us} possibility: & obe t^{er}
accord (h) Lit. c. Releases, (i) 11 H. 4. 33. a. & 17 E. 3. 87. 10 E. 2.
tit. Confirmatio 24 & est mise in 13 E. 1. tit. Confirmatio 24. c^{on}e p^{er}
un maxime, Si home quite claime s^{on} droit avant q^{ue} le droit luy
eschue, le quite claime est nul. Vide 19 H. 6. 62. a. Et obe t^{er}
accord Bracton lib. 2. f. 58. b. Item vidend^u quado quis possit
confirmare; & sciend^u non priusqu^{am} jus ei acciderit. Mes
en le case al barre le releas est fait p^{er} le baron del Eliz.
avant

avant le droit ou interest vest en le feme, & come Bracton dit priusquam jus ei acciderit. Et appiert q̄ t̄ nest forsq̄ possibility. p̄ t̄ q̄ ne poet estre grant ou assigne al auter, com̄ fuit ap- judge en (a) Carters Case, nient plus q̄ un Rectory q̄ est ap- propriate in futuro ap̄s le mort dun incumbent, poit ee de- mise in le vie del incumbent, p̄ t̄ q̄ nest q̄ possibility, come est tenuis en 8 El. Dyer 244. (b) Et le case de (c) Hoe in le 5 pt de mes Reports, f. 70, 71. fuit forsq̄t urge, ou le case fuit, q̄ in action de Det poit p̄ Doe in Bank le Roy, p̄helix Mar- shal fuit bail p̄ le def. & puis devant aucun judḡnt done, Doe releas al Marshal tous actions, duties & (d) d̄bs, & puis judḡnt fuit done vers le def. & sur son default Scire fac. issint vers le dit p̄helix q̄ plead le dit genal release, sur que le pl̄ demurre, & fuit adjudge q̄ cest releas ne barrera le pl̄, p̄ t̄ q̄ devant judḡnt t̄ fuit forsq̄ mere possibility, & p̄ t̄, come le liure dit, t̄ ne poit ee releas. Int̄ in le case al bar̄ devant le mort de John Horice leign̄, Elizabeth nad forsq̄ mere possibility, & p̄ t̄ ne poit estre release. Mes fuit resolve per totam curiam, que le dit (e) releas ad barre le dit Elizab. a claimer riens en le dit leale ap̄s le mort del dit John Horice leigne. Et primerment fuit observe le grand sapience & policy des sages & founders de nostre ley, queux ont provide, q̄ nul possibility, (f) droit, title, ne chose en action, serra grant ou assign aux strangers, car t̄ serra encheson de multiplication de cōtentions & suits, de grand oppression del people, & principal̄ de terre-tenants & sub- version del due & equal execution de Justice. Et sicome ils ne poient ess̄ grant p̄ le act del party, issint droit en action ne serra transferre per act en ley, come al Seignior p̄ (g) escheat, ne seignior (h) del villeine abera choses en action, cōe appiert en 22 Ass. pl. 37. &c. Aup̄ est resolve en le Marques de Winchesters Case in le 3 part de mes Reports, f. 2. b. que per le general parols dun act dattaindre de trea- son, p̄ q̄ tous fres, tenements, droits & hereditaments del person attain̄t sont done al Roy, uncore nul (i) droit al fre en action est done al Roy: & tout t̄ fuit p̄ le quiet & repose de fre-tenants. Mes tous droits, titles & actions posent p̄ le prudence & policy del ley estre releas al fre-te- nant, p̄ in le reason de son repose & quiet, & p̄ avoidance de contentions & suits, & q̄ chescun poet vivre en son voca- tion en peace & plenty. Et p̄ t̄ un droit ou title al frank- teneant ou inheritance (car icy nest parle de collateral pow- ers

(a) 2^o Brownl. 173.
1 Bulstr. 192, 193.
Cr. Jac. 510. Ray-
mond 146.

(b) Dyer 244. a. pl.
60. 6 H. 7. 13. b.
1 Co. 155. a. Co.
Lit. 352. b. Br.
Appropriation 5.
Plow. 449. b.
(c) Moor 469.
Goldsb. 166. Cr. El.
579. Co. Lit. 265. b.
Apres 51. a. Cr. Jac.
401, 451, 623, 171.
1 Sid. 141. 2 Bulst.
231, 286. Hutt. 12.
Poph. 136. Winch.
56.

(d) 8 Co. 153. b.
Popham 136.

1 Brownl. 80, 115.
2 Rol. Rep. 20. Cr.
Jac. 300, 486, 487.
Lit. Sect. 708. 2 Rol.
406, 407. Bridgm.
122, 124. 20 All. 5.
5 E. 4. 42. 14 H. 8. 9.
40 E. 3. 48. 34 H. 8.
Releas 90. Hob.
216. Noy 26. Hutt.
17. 1 Bulst. 178. Yel.
214, 215. Cr. Eliz.
551, 552. Lit. Rep.
87. Winch. 56.

(e) 1 Jones 17.
Cr. Car. 479.

(f) Co. Lit. 266. a. b.
2 Rol. Rep. 319.

(g) Godb. 310.

(h) Br. chose in A-
ction 8. Br. garran-
ty 45. Dr. & Stud.
139. b. Br. Voucher
132. 1 Co. 136. a.
Co. Lit. 117. a.
2 Rol. 733. Br. Vil-
lenage 37.

(i) Hob. 342.
Moor 125. 2 Rol.
Rep. 319.

(a) Raym. 146.
Co. Lit. 268. a.

(b) 2 Rol. Rep. 322,
323, 417, 429. Co.
Lit. 268. a. 269. a.
Godb. 313, 314.
3 Co. 29. b. 1 Jones
73.

(c) Sect. 454.

(d) Sect. 490.

(e) 8 Co. 151. b.

(f) Windh 37.

Le 1 reason.

(g) 8 Co. 95. b.

(h) Co. Lit. 215. a.

Le 2 reason.

(i) Sect. 648. Co.

Lit. 343. a. 1 Co.

147. b.

(k) Palm. 48.

ers) soit en presenti ou futuro poert estre (a) releas en 5 man-
nere: 1. Al tenant de frankteint en fait, ou en ley, sans aucun
pibity: 2. Al cesty in rem: 3. Al cesty leste del reversion,
sans aucun pibity: mes estate ne poert estre enlarge sans pib-
ity: 4. Al cesty q ad droit soleint en respect del pibity: cõe
si tenant soit disseille, le sñr poert releas les services en re-
spect del pibity & droit, sans aucun estate: 5. En respect del
pibity soleint, sans droit: come si (b) ten en tail fait feoff-
ment en fee, le donee aps le feoffment nad aucun droit, & un-
core en respect del pibity soleint le donee poert releas a luy le
rent & tous services savant fealty: insint le def. poert releas
al vouchee en respect de pibity soleint: mes nul estate poert
passer p releas mes a cesty q ad estate en pibity, & nemp e
respect del droit ou pibity soleint: Vide Lit. c. (c) Releases
105, 106. a. & b. 19 H. 6. 17. 23. 14 H. 8. 8. 7 E. 4. 13. 14 H. 4. 38.
1 H. 5. Grant 43. 7 E. 4. 27. 5 E. 4. 1. 5 E. 4. 3. 48 E. 3. 8. 31 E. 3.
Card 116. 13 H. 4. Confirmac 20. 20 H. 6. 29. 8 H. 4. 5. 7 E. 4.
13. 9 H. 7. 25. 18 E. 3. 12. 5 E. 3. 36. 7 E. 3. 46. 22 H. 6. 12.
(d) Lit. 114. b. Insint si le tenant fait feoffment pendant le bf, le
(e) releas del dñr a luy est bone in respect del pibity. Et si
lesee p ans soit ouste & cesty en le reddion disseille, & le dissei-
sor fait lease p ans, le lesee q suit ouste poert releas al lesee
del disseisor, & uncore suit pibity, mes le disseisor ne poert re-
leas a luy p t q il nad frankteint, 49 E. 3. 28. vide 19 H. 6.
Et le dñr releas avoit extint le future interest del dñr Eliza-
beth put (f) divers causes.

1. Pour t q e un future interest en un chattel, q tñce e poert
plus (g) facilement e create q un frankteint, insint e poert plus
facilement e determine: Et p t si homme fait leas p ans, & q sur
non pformance dun collateral condit, q e terra void, le grantee
del reverb pñd (h) advantage de t p le common ley: mes au-
termit est de leas p vie sur semblable condit, car lun poert
plus facilement e determine q laut: & si lesee p 1000 ans soit
ouste p le lessor, & il fait lease p 2 ans, le lesee p 1000 ans poert
releas a luy, mes si le lessor disseille s lesee p vie & fait leas p
10000 ans, le lesee p vie ne poert releas a luy, car un frankt
est plus haut q a mere in un chattel.

Lit. (i) dñr c. Discont. f. 144. q e un maxime en la ley, q tre
en fee simple, &c. poert e charge p lan voy ou laut: insint fait
dit q tñt maxime en ley, q chet dñt ou tñle ou interest in presenti
ou futuro, p t (k) jointure de tous q poert clain ass tñt droit,
tñle ou interest, poert e barre ou extint: & p t sur le maxime
que

que Litt. mit fuit cōclude, q̄ si al cōmon ley le doñ & donee in
tail ust (a) join in grāt dun rent charge, & puis le donee ust de-
by sās issue & la fre ust reyt al doñ, q̄ il tiend̄ t̄ charge, & unē il
naboit forsq̄ (b) possibility al tēps del charge fait, mes tous
q̄ux ont estate ou infest in prāsenti ou futuro join in le charge:
à fortiori sīs ustont join in un leas p̄ ans, & le donee ust deby
sās issue le leas ē bone vs le doñ. Jūint sur le 2 maxim̄ in le
case al bar̄ John Horrice leigne & Eliz. ont join en un t̄it
dassignāt al aūt, sans q̄stion t̄ ust ousterāt barre le dīt Eliz.
car nul aūt ad interest ou in prāsenti ou in futuro, mes ceur
q̄ joinont en le grāt: iūint q̄nt le baron del Eliz. releale al
cesty in possess. ambideur cōsent a t̄, lun en releasing, & l'auter
in accepting de t̄, & in le case q̄nt ambideur join in le grāt, t̄
est le grāt de cesty q̄ ad le terme & le releas ou confirmāt del
aūt. Vide (c) Mayhowes Case in le 1 part de mes Reports
f. 146. b. notable case a cē p̄pose. Et Paschæ 4 E. 6. in Com̄ Ban.
come le Chief Justice dīt il ad bieu un report, fuit tenus per
Mountague, Hales, Molineux & Brown, Justices del Common
Bank q̄ si home fist leas al aūt p̄ 21 ans, si le lessē cy longm̄t
vive, & le lessōr & lessēe join in grant p̄ fait del t̄me al aūt, &
puis le lessēe mozt deins le t̄me, le grantee ensoiet le fre du-
rant le residue del t̄me absolute. Jūint en le case al barre
ou l'interest del J. Horrice leigne fuit defminable p̄ son mozt
ou cē releas ad fait s̄ infest absolute durāt tout de residue
del t̄me. Et si cesty q̄ use aps lestat de (d) 1 R. 3. & debāt lestat
de 27 H. 8. ad disseise le disseisōr de ses feoffees, ou le use ē
suspend & depēd in possibility dēe, revibe p̄ lentre des feoffees,
& unē sil fait feoffm̄t en fee t̄ est bone & liera, in respect q̄ le
ley ad consideration de cest possibility del use.

3. Quādo diversi desiderātur actus ad aliquē stat̄ pficiēd̄,
plus respicit lex actū originalē, q̄nt al p̄fatiō dun estate ou in-
fest d'is acts ou choses sont req̄site, le ley ad plus regard al
original act, quia (e) cujusq̄ rei potissima pars est principiu, car
t̄ est le fundam̄tal pt sur q̄ tous les aūt̄s sont foundue. In cē
case al bar̄ sōt 3 choses req̄site al p̄fatiō del infest del Eliz.
devise (in que est include le mozt del devisōr) & t̄ est le fun-
damental part; lassent del executoz, q̄ auxy appiert apres
fuit done en case; & le mozt del primer devisee. Et pur ceo
cest case poet aptm̄t estre resemble al case de dower, q̄nt hōe
seisie de fre en fee ou fee tail gēnal prist feme, al perfection
de dower (f) 2 choses sont requisite, loyal matrimony, &
mozt del barō, car nient obstat q̄ son baron est seisie en fee &
le

(a) Co. Lit. 45. a.

2 Rol. 64.

(b) Palmer 48.

(c) Poph. 50. Cr. Car.

478. Winch 31. Lane

38.9 Co. 140. a. 142. a.

Co. Lit. 277. b.

(d) Apr. 123. a. b. 131.

b. 1 R. 3. c. 1. 1 An-

der. 86, 320, 331, 333.

334. 1 Co. 87. a. 88. a.

123. a. b. 128. b. 129. a.

131. b. 132. a. 135. a.

133. b. 147. b. 2 An-

der. 74, 87, 136.

(e) Co. Lit. 248. b.

(f) 2 Co. 93. a. Flow.

373. a. Co. Lit. 31. a.

32. a.

le mariage ē total, unē el nad forsqz possibility de dower tan-
que le mozt de son barō, in th le mafi cōm Eliz. nad forsqz pos-
sibility tanqz le mozt del pūsh debise: & p ē in 6 E. 2. tit.
(a) M. 6 E. 2. Dower (a) Dower 45. & 19 E. 2. tit. Dower 165. ou est tenus, q in bē de
145.
(b) 2 Co. 93. a. Apres
99. a. Cr. Jac. 333.
Moor 53. pl. 154.
5 Co. 124. a.
(c) 4 H. 7. c. 24. Co.
Lit. 262. a. 326. a. 372.
a. 3 Co. 86. b. 87. a. b.
88. a. b. 89. a. 90. a. b.
77. b. 91. a. 8 Co. 100.
h. 9 Co. 140. b. 141. b.
105. a. b. 5 Co. 123. b.
124. a. 10 Co. 96. a.
11 Co. 71. a. Palmer
255. Goldsb. 171.
Savil 85, 88, 106.
1 Leonard 77, 213.
2 Ander. 115. 2 Rol.
Rep. 402, 500, 501.
1 Rol. Rep. 153.
3 Bull. 152. 2 Leon.
53, 157. 3 Leon. 10.
227. 1 Ander. 170.
Poph. 108, 114. 3 Inst.
216. Dyer 3. pl. 172.
pl. 3. 182. pl. 55. 254.
pl. 104. 19 H. 8.
6. b. Plow. 360. b.
9 Co. 104. b. 7 Co.
32. a. Rastal Fines 8.
Hob. 334.
(d) Dyer 72. pl. 3. Co.
Lit. 326. a. Moor 53.
pl. 154. 8 Co. 72. b.
1 Rol. Rep. 91, 160.
11 Co. 63. a.
(e) Co. Lit. 221. b.
Dyer 224. pl. 28.
Palm. 235. 2 Co. 93. a.
Goldsb. 148.
(f) Lit. sect. 357. Co.
Lit. 221. a. b.
(g) Perk. sect. 801.
Co. Lit. 221. a. b. 222.
a. 2 Co. 59. b. 79. a.
13 H. 7. 23. b. Br.
condition 26, 217.
44 Aff. 26. 20 H. 6.
34. b. 5 Co. 21. a. Cr.
El. 450, 479. 2 Ander.
18. Moor 452, 453.
Poph. 110. Hutt. 48.
1 Rol. 547, 448. 3 Co.
29. a. b. 1 Rol. Rep.
168.

le mariage ē total, unē el nad forsqz possibility de dower tan-
que le mozt de son barō, in th le mafi cōm Eliz. nad forsqz pos-
sibility tanqz le mozt del pūsh debise: & p ē in 6 E. 2. tit.
Dower port p le barō & sē, fine leby p le barō & sē nest pas
barō, & le reason la rendue est, p ē q devant le mozt del barō
la femme nad droit de action, & p ē la p le rule del court issue
fuit pūse q la feme al tēps del fine leby nadoit riens forsqz
come feme: & l'opinion de Plowden in Stowels Case (b) 373. a.
est come ensuit, Nota, Lecteur q in mon opinion si baron leby
fine obe pclaim, & 5 ans passe puis les pclaimatiōs, la feme
ne sert ly al 5 ans puis le mozt del baron, mes est alarge &
nient touche p le purvieu del act de (c) 4 H. 7. car le purvieu
fuit enbers ceur que ont droit al temps del fine leby, ou ont
future droit apres sur cause surdant devant, a quel future
droit tozt fuit fait devant le fine ou p le fine, &c. mes icy en
case de dower le title est accrue tout puis le fine viz. p la mozt
del baron, car tanqz le mozt nul title fuit consummate, & les
autres 2 points, s. intermariage & seisin del baron, ne sont de
aucun mozt sans le tierce, sicut q tozts les 3 points ne sont
q un cause puis la fine. Des a cest jour les dits liures de 6 &
19 E. 2. ne sont tenus p ley: car oze nul question ē fait, mes
q si baron & feme leby fine, la feme est barō de son dower p 2
reasons: 1. Pur ē q le infmariage & seisin sont le fundamētal
causes del dower, & le mozt del baron forsqz come execution
de ē: 2. Tous ceur q ont estate, ou title, ou claime joine
en assurance, & p ē in tiel case si le baron & feme ont grant
rent p fine hors del terre, ou ont fait leas p ans rend rent al
baron & les heirs, & puis la feme recover dower, el tiendra ē
charge obe le rent & obe le fine solongz le maxime q Litt.
mit debāt, & l'opinion de Plow. avādit ne pas tenus p ley cōe
appiert in 6 E. 6. (d) Dyer 72. & in Dāports Case in 5 El. (e) 224.
Dyer, appiert q fuit adjudge al cōtrary in 4 H. 8. & oze cōmō ex-
pertence sans cōtradict est encount ē, & (f) Lit. cap. Condi-
tiōs f. 83. tient q si feoffee sur cōdition pūst feme, le feoffor poet
ent p le cōndit (g) enseint, & le reason est p ē q le ley ad
principal regard al original & fundamētal cause, & unē port
ēe dit q le title de dower nest cōsummate tāqz le mozt del ba-
ron, & q pādventure la feme deby devant le baron. Sicut in le
case al barre le debise & assent del executor sont les original
& fundamētal causes del interest del Eliz. & le mozt del
John Spyrice leigne nest forsqz mean a producer ceo in
posset.

possession, mes t̄ done riens, mes tout le infest accrue p le devise, & est execute per l'assent del executor, & p̄ t̄ cibien come en le case de dower t̄ post estre release. Et Sir Anthony Fitz. en son (a) Na. B. f. 98. tient, q̄ si home leby fine del fre en ancient demesne al comon ley a un aut, oze le S̄r en ancient demesne avera byef de Disceit vers cesty q̄ leby le fine & cesty q̄ est tenant & p̄ t̄ il anientra le fine, & le conusoz serf restitute a son possession & title q̄ il aya done p la fine; & ove t̄ accord (b) 21 E.3.20.b. & (c) 7 H.4.44.a. encounter un opinion obiter en (d) 17 E.3.31.b. Mes si le conusoz aps le fine release al conusee en possession esteant p son fait, ou (e) confirme son estate p son fait en le tres donqs l'opinion del Fitzh. est q̄ le conusee reteindra & aya le fre nient obstant q̄ la fine soit anient, p̄ t̄ q̄ cest releas ou confirmation fait a luy esteant in possession fait son estate firme & droiturel ds cesty & ses heirs q̄ release ou confirme: q̄l opinion fuit assirme p bone ley p tout le court en cest case, & uncoze aps le fine leby le conusoz naboit ascun droit en le fre, mes solement possibility daver la fre aret aps la fine anient p byef de Disceit destre port p le seignior de q̄ la fre est tenus. Et Warborton Justice cite (f) Grants Case adjudge en cest court Hill. 29 El. Rot. 824. ou le case fust, q̄ William Grant seisse de fre in fee tenus en socage p s̄ volunt en escript devila la fre al John Grant firs de son fre q̄st il vient al age de 25 ans, a ad & tener a luy & a les heirs de s̄ corps & moztu avant issue Christian s̄ file & h̄e, q̄ epouse William Barth, q̄ ad issue John, & le dit John Grant aps lage de 21 ans & devat s̄ age de 25 in anno 37 H.8. leby un fine ove proclam̄, & aps il attain a s̄ age de 25 ans, & ad issue Margaret & moztu, si lestat tail in futuro & contingency al t̄ps del fine leby fuit bart ou nemp, fuit le q̄stio; & fuit resolve, q̄ lestate tail fuit (g) bart, & uncoze le conusoz naboit forsq̄ mere possibility d'ay estate tail al t̄ps del fine leby, & t̄ p force del pois de lestatute de (h) 32 H.8. c.36. All Fines levied by Proclamations, &c. of any Manors, Lands, &c. before the tyme of the same Fine levied in any wise intailed to the Person or Persons so levying the same Fine, or to any of his or their Ancestors, &c. & count q̄ le dit John Grant ne fust seisse per force del tail al temps del fine leby, uncoze per reason de ceux parols (before the Fine levied in any wise intailed) estate tail in futuro est comprehend; & tout t̄ p force del dit statute, car ptes finis nihil habuerunt: mes nul

(a) F.N.B.98.a.
Cr. Car. 478.

(b) Fitz. desceit 44
(c) Br. disceit 38.
(d) Fitz. desceit 37

(e) Cr. Car. 478.

(f) 2 Leon. 36.
3 Leon. 211, 227.
Goldsb. 107. Cr.
Car. 435. 1 Leon.
244. Cr. El. 122,
610. Hob. 333.

(g) 3 Co. 90. a.
Cr. Car. 435. Cr.
Jac. 591. 9 Co.
141.a. Cr. El. 610.
Hob. 258, 333.

(h) 1 Leon. 244.
2 Leon. 62, 224.
3 Leon. 10. Moor
115, 146. 1 Ander.
46. Savil 85, 88.
1 Bulst. 33. Co. Lit.
372.a. Goldsb. 11.
3 Co. 51. a. Hob.
258. 7 Co. 32. a.b.
9 Co. 140.b. 11 Co.
75. a.

Judgmente fuit enter. Et fuit refolve, q un future droit ou poffibility q poit estre releafe, doit ad foudrair e original inception ebe e avantdit, ilint coblent ee necessary e comon poffibility q in Chomleys Case in le 2 part de mes Reports, f. 51. a. b. e appel potentia ppinqua, e poffibility q depend fur le mozt del home ad un necessary e comon intendit, s. necessary en refpect q tous les ilmes de Adam doivent mozt, statutum est hominibus semel mori, e comon, q le mozt poit happer a tiel

(a) 1 Rol. Rep. 327.
Fitz. tail 32. Br. tail
16. Br. estate 12.
Flow. 35. a. F.N.B.
205. h. 1 Co. 120. a.
Br. condition 119.
Co. Lit. 20. b. 25. b.
(b) 1 Rol. Rep. 321.
Co. Lit. 25. b.
(c) Co. Lit. 25. b.
184. a.

temps q le contingency poit funder effea, come en (a) 13 H. 7. 10. b. si fre soit done al maried home e maried femme e a les heirs de lout a corps ingendres, e est done estate en tail, car est de necessity q mozt ensuera, e e comon poffibility q lun debiet devant laut ilint q mariage poit ensuer: mes en mesme le case ne terra (b) poffibility fur poffibility; se p e si fre soit done (c) a un home e a femme, la le ley ne intend q pmerchit il maried lun, e puis cest q il maried debiet, e q il espouse laut, e p e en tiel case ils sont federal inheritances al commencement, come si fre soit done a 2 Barons e lout femmes e a les heirs de lout corps ingendres, en cest case le ley ne expectera second mariages, mes ils in cest case aberont joint estates p vie, e lun baron e femme aha lun moiety in tail in common ove laut baron e femme del aut moiety, e ilint federal inheritances; q ove t accord 24 E. 3. 29. a. car auter-

(d) 1 Rol. Rep. 321.
Co. Lit. 22. a. 28. a.

ment terra poffibility fur poffibility; e si (d) home done fre al baron e femme (oye est apparent poffibility q ils aberont ilmes) e puis ils sont devoie causa precontract. ilint q le poffibility est dissolde, le ley ne unqs expectera ad mariage, car p le devoie ils nont forsq estate de franktenit, e ove t accord (e) 4 H. 7. 16 & 17. femme poit enseoff un maried home

(e) 7 H. 4. 16. b.
17. a. Br. tail 9. Br.
estate 11. Br. de-
raignment 2, 13.
8 Co. 87. a. 5 Co. 8. a.

causa matrimonii prelocuti, car est de necessity q mozt ensuer, e e comon poffibility q le femme de seoffee debiet debiet le seoffee, ilint en le comon case de leas p vie le (f) rest al dit heirs de J. S. adonqs en vie, le rest e bon p le necessary e comon intendit. Mes le case al bar e plus fort q aucun des auts causes, car e de necessity q John Horice le pier debiet e est plus q comon intendit q il debiet deins 1000 ans, car p le cibil ley longissimi vitæ hominū repus est cent ann. Et ilint appert q en nre ley la est jus proprietat, possess. & poffibit.

(f) 2 Co. 51. b. Co.
Lit. 343. a. Apres
51. a.

Et qst al cases q ont estre urge p les Serjeants del aut pt: 1. Qst al releas del conusee en (g) 27 E. 3. e 25 Ass. fuit refolve, q les liures fues bone ley, car la le corps est le better, e nep la ee mes en refpect del corps, e la fre nest charge ove le

(g) 27 E. 3. execu-
tion 130. 25 Ass.
pl. 7. Devant 47. b.
2 Rol. 405, 470.
Co. Lit. 265. b.
Er. El. 552.

det

det tanqz execution sue: & obe t accord Pl.Com. f.72. in Sic Tho. Popes Case, & p t le releafe fait p le comisee de tout le droit en la tre ne barrera luy de son execution. Et fuit agree, q le releas del firs al disseiloz de son pier en le vie de son pier est ousterint void, p t q le firs nad aucun droit, ne foundation ou original incep dascun droit, in la vie s pier. Et le rule mise in 13 E.1. & in Bracton est de e agree p bon ley, si t soit bien intend, s. q cesty q releas ad droit, ou foundat ou original inception dun droit. Et qnt al case de (a) Hoe, t fuit auxy resolve deestre bon ley, car la le chose q sert releafe fuit tout ousterint incertain al teps del releafe fait; car cesty q deveigne bail en bank le roy nest lie en aucun certain sūme, ne aucun certainty de t appiert tanqz judgnt done vers le Def. & pur ceo p le incertainty del chose que terra releafe le releafe de tous actions, duties & demands ne poit ceo discharger. Fuit ouster resolve, que quant la est incertainty en le person, nul releafe poit estre fait: & p t si lease p vie soit fait, le (b) cas al droit heirs de J.S. & le lessie est disseilte, & leigne firs de J.S. releafe al disseiloz, & puis J.S. mozt, le releafe est void, car est incertainty le quel il terra droit heir al temps del mozt son pier. Et in 17 Eliz. cest case fuit move al barre en bank le roy, come lessa al baron & feme p 21 ans, le remainder al (c) survivoz de eux p 21 ans, & le baron grant ouster cest terme, & fuit tenuz p Wray Chief Justice & tota Curia, q le grant fuit void, p le incertainty del pson, car coist q de tous chattels reals q sont al feme le baron poit dispoze, un in cest case neqz le baron neqz la feme nad riens tanqz survivoz. Et in le Register original (d) f. 239. b. la est formidon pozt sur done in tiel forme, R. dedit W. & I. uxori ejus & hæredibus de corpore alterius ipsoru W. & I. qui diutius viveret exeuntibus, & quod post mortē W. & I. præfato T. filio & hæredi ejusdē W. qui præd' I. supervixit discēdere debet, &c. sūnt q le done fuit fait al baron & feme & al heirs del corps del survivoz de eux, in ql case quant al estate tail la est incertainty in le pson, & p t ils sont lease p 21 ans observant tous les circumstances requise p lestatute de 32 H. 8. uncoze cest lease ne liera issue, car p le incertainty del pson del survivoz lestate tail ne fuit vesse. Et ceuz cases in mes Reports, s. (e) Albanys Case, (f) Diggs Case, (g) Rawlins Case, (h) Mayhowes Case, le Rector de (i) Chedingtons Case, (k) & Althams Case suet affirme p ley in le argumt de case, & cite a proz le reason del cest rule in le case al barre.

(a) 5 Co. 70. b. Devant 48. a. Moor 469. Cr. El. 579. Goldsb. 166. Co. Lit. 265. b. Cr. Jac. 171, 401, 451, 623. 1 Syd. 141. 2 Bullf. 231, 286. Hutt. 12.

(b) Co. Lit. 343. a. 2 Co. 51. b. Devant 50. b.

(c) Co. Lit. 46. b. 1 Rol. 344. 2 Rol. 48. Poph. 5. 4 Leon. 185. Godb. 139. Cr. El. 841. Hutt. 17.

(d) Co. Lit. 162.

(e) 1 Co. 110. b. 4 Leon. 133, 219. (f) 10 Co. 173. a. Moor 603. (g) 4 Co. 52. a. (h) 1 Co. 146. b. Poph. 50. (i) 1 Co. 153. a. Moor 478. (k) 8 Co. 150. b.

Le 4 Reason.

(a) Moor 807. Cr.
Jac. 461, 510.
1 Rol. 916.

(b) Plow. 519. a.

(c) 8 Co. 152. a.
Co. Lit. 285. a.
2 Inst. 40.

4. Si le dit Eliz. uist deuy devant le p^rim debisee, les ex-
cutoys ou administratoys del dit Eliz. a^dont le (a) residue
del dit terme a^ds le mozt del p^rimer debisee, come appiert en
le dit Case de (b) Weldon, Plow. Com. q^l est grand p^roof q^l
Eliz. mesme puit a^d release t^rel interest q^l p^r son mozt poet
debener a ses executoys ou administratoys. Mes p^rols sont
plea : car si jeo soy disseisee, & jeo release tous actions al dis-
seiso, & puis le disseiso mozt, jeo nient obstant le release
a^des b^rief dentry in le per & cui q^ls le heir le disseiso, car cest
action ne fuit in esse al temps del release fait, & (c) actio nihil
aliud est quam jus p^rsequendi in judicio quod sibi debetur, & le
dit b^rief dentry ne fuit maintainable al temps del release,
nient pluis q^l si jeo uist deuy, mon heir ne serra barre p^r le dit
release d^ad b^rief dentry sur disseisin q^ls le disseiso sur dis-
seisin fait a moy, Vide 22 H. 6. f. 1. si un bail biens al a^d,
& puis le bailloz release al bailee tous actions, le bailee
mozt, en b^rief de Detinue port vers ses executoys, ils ne
p^rendront advantage del dit release, car ceo determine per
le mozt del bailee, & l'action done vers les executoys est novel
action (comt de mesme le nature) foundue sur lour deteiner
demesne.

Le 5 Reason.

(d) Co. Lit. 161. a.

5. Le legacy ou debise al Eliz. est in esse & present, comt
que le infest est in futuro, & p^r t^r le legacy ou debise poet estre
discharge, & p^r consequence l'interest mesme, car (d) qui
distruit medium destruit finem : & p^r t^r si un debise a un 20 l.
q^lnt il vient al age de 24 ans & mozt, le legatee ap^res lage
de 21 ans poet release cest legacy & debise, & comt q^l ap^res
il attain al age de 24 il serra barre de t^r, & uncoze p^r release
de tous suits & demands t^r nest pas release ; come si home
p^r Indenture covenant a fait future act, & devant le covenant
entreint, le covenant^r release tous actions, querels & de-
mands, & puis le covenant est intreint, le dit (e) release
nest pas barre in Action de Covenant, p^r t^r q^l le covenant fuit
desre p^royme in futuro, mes release de tous cobenants uist
esse bone barre, car le covenant fuit in esse & presenti ; &
obe t^r accord 35 H. 8. (f) Dyer 57. & (g) 4 Eliz. in le Re-
port de Benloes Serjeant, q^l case est cite alarge in Hoes Case
avantdit. M^rint in le case al barre le debise est in presenti,
comt q^l le p^rformance de t^r soit in futuro, & qui evertit causam
evertit causatū futurū. M^rint de bonis & catallis felonum
& fugitivorū, &c. l'inheritance est in esse comt q^l le accidēt
soit in t^rtein, mesme le ley de nomine poenæ relief, & similibus.
M^rint

(e) 1 Co. 112. b.
Co. Lit. 292. b. Cr.
Jac. 170. 8 Co. 153.
b. Lit. 513. Dyer
217. pl. 2. 1 Ander.
8. 5 Co. 70. b. N.
Bendl. 126. 2 Rol.
404. pl. 190. Moor
34. Co. Entr. 116.
nu. 5. Yelv. 156.
Hob. 216.
(f) 5 Co. 71. a. 1 Co.
112. b. Hutt. 17.
(g) 5 Co. 70. b.
Hutt. 17. 1 Co. 112.
b. 2 Bulst. 231.

Alint le Chief Justice dit, q̄ com̄t q̄ nul assent avoit ée done al legacy, uncoze intant q̄ Eliz. clame p̄ executory devise, el puit in le vie del p̄mier devisee ā release le devise & legacy. Vide (a) Middletons Case in le 5 part de mes Reports, q̄ executorys devant probate poient release un det, p̄ q̄ com̄t q̄ ils ne poient ā action, uncoze l'interest del action est in eux q̄ ils poient release.

(a) 5 Co 28. a.
Raym. 481. Co. Lit.
292. b.

6. Serra inconvenient que tiel manner de perpetuity serra fait dun chattel, quant de inheritance neque per act execute per le Common Ley, neq̄ p̄ limitation dun use, neq̄ p̄ devises in darreine volunts, aucun (b) perpetuity poet estre estably: Et si ceo ser̄t allow, ceo serra cause de contentions, suits & auters inconveniences. Et suit obsetbe, que ceux leales pur tants des hundreds & thousands des ans (q̄ux sont conceibe en le verity, de (c) fraud ou a defeater le roy ou auters seigniors de leur gards, ou auters loyal duties) sont plus tost unfortunate & subject al perde per utlaway, ou auters forfeitures; & si le owner de t̄ moyst infestate, lordinary granta administration, per t̄ femes p̄de leur dowers, homes leur tenancy p̄ le curtesie, & mults auters inconveniences, in sub̄sion del Comon Ley, de t̄ insuef, & p̄ t̄ ser̄t de tous aus plus perillous a faire perpetuity de eux.

Le 6 Reason.

(b) Cr. Car. 230.

(c) Co. Lit. 46. a.

Et le Chief Justice conclude son argūnt, q̄nt al p̄ncipal point, ove un Judḡnt in cest court, Tr. 28 Eliz. Reginae Rot. 1674. inter (d) Hammington adm̄ de Isabel Oram pl. & Rudyard & Mary sa feme adm̄ de Lawrence Kidwel in det sur obligation fait p̄ Lawrence Kidwel al dit Isabel, q̄l obligation fuit fait p̄ performance de covenants in un Indenture inter Lawrence Kidwel & le dit Isabel: Et le case fuit tiel, William Hammington possels dun mese in Londres ap̄pel vides house pur 31 ans, per son testament devise les profits de ceo al dit Isabel durant le temps que el contenuet sole & widow, & apres il devise le terme a Reighnold son firs a moyst, 1 Maſ, Isabel per assent del executory enter & purchase le dit mese in fee, & le dit Laurence Kidwel bargain & vend per le dit Indenture le dit mese al dit Isabel in fee, & covenant que le mese al temps del assurance ser̄t cleres̄nt discharge de tous former bargains, sales, titles, rights, & tous auters charges: Le Defendant plead covenants performe: Le p̄ assign pur breach le dit devise al Isabel & puis al Reighnold; come est avantdit, & q̄ puis le dit

(d) 1 Leon. 92.
Owen 6. 1 Ander.
162. Gouldsb. 59.
65. Moor 249, 759.
2 Sid. 167.

Moor 759.

dit Indenture Isabel ad marrie Wm, sur que Reighnold enter, sur q le Def. demurre. Et in cest case 4 points fueront resolve: 1. Que le dit executoy devise al Reighnold fuit bone: 2. Coint q lentier fine fuit in Isabel quousq; &c. issint q p le purchase del fee simple lenterest del Isabel fuit extinct, unē ē ne defeat lexecutoy interest del Reighnold, mes que apres le mariage del Isabel, & nemy devant, il poit enter: 3. Fuit resolve que Reighnold ne puit grant son interest ouster cy long come Isabel fuit sole: 4. Le grand difficulty del case fuit intant que le dit Reighnold al temps del dit covenant navoit forque possibility que le dit covenant ne extend a ceo. Mes fuit resolve q le dit covenant extend a ē, & a cē ppose ad essence, & auxy puit ēe forfeit, & Judgmt fuit done p le Jd: quel Judgmt prouve forstint q ē poit estre release.

¶ Le 2 question fuit move, admittant le release al pñsi devisee destre sufficient a extinder le claim & future interest del dit Eliz. si ē amendia lestate del John Morrice leigne que ad lentier terme in luy sil vive cy longist, ou si per son mort les lessors poient enter: Et fuit resolve que le dit release ad consolidate & perfect lestate del dit John Morrice, q ou ē fuit definable devant p son mort, oze il ad lentier fine in luy durant tout le residue del terme absolument. Mes cest point ē avant over-rule en le 2 reason sur le report del

(a) Devant 219.a. case en (a) 4 E. 6.

Fuit dit q laxare est properint a mitter prisoners in fetters al liberty, & relaxare ē a faire ē estions; & Metaphorice, relaxare est a mitter al liberty fettered estates & interests, & a faire eux free & absolute.

¶ 3 Question fuit move in cē case, le qd appiert asc' assent ou agreint del executoy in cest case a pñder le dit mese, &c. p force del devise, car fuit agre p oēs, cōe ad ēe dit devant, q primerint il pñdya ē cōe executoy: Et fuit resolve q qñt William Caploz & Eliz. la fēe p scriptum suum ad specialem instantiā & requisitionem præd' Johann' Morrice senioris (q fuit executoy) relaxaverunt, &c. ē amount a un assent p deux causes: un p ē q il request ē, que imply assent:

(b) 10 Co. 144. a.
1 Rol. 300, 303.
2 Rol. 263.3 Keble
537.
(c) Apres 67.b.
Fitz.surrender 3.
Br.surrender 21.

2. Que il accept ē, & auxy imply assent, (b) Non enim refert an quis assensum suū præbet verbis, an rebus ipsis & factis, cōe 44 E.3.tit. fines 37.& Litt. cap. Attorn. si Baron accept grant de reñson, &c. ē amount a un Attornint, & in (c) 37 H. 6. 17.b. cest p q ad interesse termini, cessascavoit, future interest, ne

ne poist perpeſſe poſs ſurrender t̄, mes acceptance dun no-
bel leaſe mergera t̄. Et en 7 E. 3. 50. b. le ſeignior demanda
herriot, & le heir deſidera heaſt en q̄ il meſme ad p̄perty en ſon
dpoſt demefne al ſeignior, t̄ amount a un done. Et puis en cē
terme judḡmt fuſt done & enter, Quod querens nihil capiat
per breve, &c.

Trin. xi Jac. Reg.

Le Case del Chancellor, Maisters & Schol-
lers del University de Oxford.

LE Chancellor, Maisters & Schollers del Aniverfity de Drogh, port Quare impedit vers Rich. Evesq de Coventry & Lich. Edward Basset Gesh, & Hugh Beare Clarke, a presenter al Eglise de Drai-cot en le Moy en le County de Staff. & count q un John Drai-cot & son felle del manoz de Drai-cot en le County abat-dit a q l'advowson del Eglise de Drai-cot fuit appendant in fee, & p son fait granta le pochetne avoiance del dit Eglise a un George Ewe, & puis le dit John Drai-cot moust, apres q mort, le manoz obe l'advowson discent a un John Drai-cot af rolm & heir le dit John Drai-cot, viz. firs & heir de Philip Drai-cot, firs & heir del dit John lafel, & count ouster q p un Act en le Parliamt nostre seignior le Roy q oze est lan de son raigne le (a) 3 fuit ordain p authorite de Parliamt, q Justices Daisse & Gaol Delivery & Justices de Peace a lour Sessions averont authorite p force de cest Act a enquerer, oyer & fminer de tous recusants & offences, cibien p non receipt del sacraint solong le voier intent de m le ley, cde p non repairing al Eglise solong le voier intent des foym leys in tiel maner & foyme, cde Justices Daisse & Gaol Delivery pussient fair p les foym leys en case de recu-

(a) Moor 836,
872 3 Jac. cap. 5.
1 Jones 20. Hob.
73, 126, 226, 227.
3 Inst. 178. Cr. Jac.
352. 1 Rol. Rep.
208. Latch 172,
177. O. Bendl. 180.
Noy 88, 89. Jenk
Cent. 297. Ley 59.
Apres 54. b. Caw-
ly 200. Dalt. Just.
c. 81. Godb. 216.
4 Leon. 245. Keb.
Just. 566, 567, 568,
569.

recusancy p non repairing al Eglise; & auxy averont power al Assises & General Gaol-deliberies, & al Sessions en queux aucun inditement encounter aucun person, ou pur non repairing al Eglise solongz les forin leyes, ou pur non receivng del sacrament solongz in la ley, serz prise, serz proclamation, per que serra command que le corps de chescun tiel offendoz serz rendre al Wiscourt de mesme le County, &c. devant le prochain Assises & General Gaol-delibery, ou devant le prochaine General ou Quarter Sessions respectibely destre tenus pur le County, limit, division ou liberty, & si tiel offendoz ne appierera, q donques sur le recording de chescun tiel default, & serz cy sufficient conviction en ley del dit offence dont tiel person serz indite, come est avantdit, come si ust esse convict p verdict: Et lou p un autre act a mesme le Parliament est enact, que chescun person que adonques en apres serz un Popish Recusant convict, durant le temps q il remainera un Recusant, puis le fine del Session del dit Parliament, serz disable a presenter al aucun Benefice ove Cure ou sans Cure, Prebend ou Living Ecclesiastical, ou a conferre ou nominater al aucun Free-school, Hospital, seu donative queuncqz, & del commencement del mesme le Parliament serz auxy disable a granter aucun (a) advowson dascun Benefice, Prebend ou Living Ecclesiastical, & que le Chancellor, Masters & Scholars del University de Oxford, cy tost come aucun de eux serz void averont le presentation, nomination & collation al chescun tiel Benefice, Prebend ou Ecclesiastical Living, School, Hospital & Donative, gisant ou existent in les Counties de Dron, Kent, Midd Suffer, Surf, South, Berk, Buck, Glouc, Wigorn, Stafford, Warwick, Wiltes, Somerset, Devon, Cornwal, &c. queux debeigne void durant tiel temps que le Patron de eux remainera Recusant convict, come est avantdit, sicome, p le dit Act inter autres pleinement appiert: Et le dit John Daicot le firs del manoz avantdit a q, &c. issint esteant seisie al Assises & General Gaol-delibery p le County de Stafford tenus al Staff. deins mesme le County, le 29 jour de March lan du raigne nostre seignior le Roy que ore est le 8 fuit indite cibien p non receivng del sacrament, come pur non repairing al Eglise, &c. p 3 mois, & donques fuit proclame solongz lestatures ent faits, & q il al prochain Assises tenus 16 die Augusti anno 8 supradicto, fist default, & ne render son corps al Wiscourt, p que le dit John Daicot debeigne un Popish

(a) Moor 872.

Le Case del Chanc. &c. de Oxford. Part X.

Popish Reculant convia, & le dit John Draicot del manoz avantdit a q, &c. issint esteant seisie come est avantdit, le dit Eglise devient void p le mort del dit John Eyre, & uncore est void, & ea ratione appent aux dits Chancelloz, Masters & Scholars a present, & les Defendants eux disturba, &c. Levesq plead ne disturba pas, &c. Edward Bassett plede, que le dit John Draicot le firs devant le dit conviacon del dit John, esteant seisie del dit manoz a q, &c. s. 20 Junii anno 8 supradict' p son fait grant al dit Edward Bassett le (a) prochain avoindance al dit Eglise, puis quel grant, L'esglise, devient void per le mort del dit George Eyre, per que il present le dit Hugh Hear, que a son presentment fuit admit & institute, &c. le dit Hugh Hear plede que John Draicot le cousin fuit seisie del advowson avantdit en fee, come dun grosse, & confesse le presentment de George Eyre, & plead q le dit John Draicot, 1 Maii anno 3 Regis Jacobi p son fait grant le prochain avoindance del dit Eglise al dit Edward Bassett, & q L'esglise devient void p le mort del dit George Eyre, p q il present, &c. le dit Hugh Hear, &c. Absque hoc quod advocatio præd' pertin' ad præd' manerium de Draicot, &c. Le JP quant al plea lordinary pria brief al Evesq, sed cesset executio, &c. Et quant al plea del dit Edward, les JP demur' en ley; & quant al plea del dit Hugh, le JP reply Quod advocatio Ecclesie præd' pertinet ad manerium præd', & hoc petit quod inquiret p patriam, & præd' Hugo similiter, Sur le (b) demur' sur le plea del dit Edward 4 matters en le ley fueront move: 1. Intant q le dit John Draicot le firs ne fuit un Reculant convia al temps del grant del dit avoindance al dit Edward Bassett, si le grant soit fait void p le dit statute de (c) 3 Regis Jacobi. 2. Si cest grant esteant fait aps l'enditeint, si t ne fuit cobin apparant, & si tiels grants ser' allow, a q l'purpose le clause del dit statute concernant t serbera: 3. Intant q le dit act done le benefit a presenter al dit Eglise al Chancelloz & Scholars del Universtiy del Oxford, & ils ount port cest action per le nosme de Chancelloz, Masters & Scholars del Universtiy de Oxford, le q lerra intend leur voier nosme de incorporation, s'ils prendront ascun benefit del dit act, p reason del dit misnomer: 4. Intant q les JP nount adre, q al temps del avoindance del Eglise q le dit John Draicot continue & remain un Popish Reculant si t lerra intend.

Quant al pimer fuit argue per le councel del dit Edward

(a) 1 Jones 20, 26.

(b) 2 Rol. 104. pl.
10. Co. Lit. f. 125. b.

(c) Moor 836, 872
Hob. 73, 226, 227.
1 Jones 20. 3 Jac.
c. 5. 3 Inst. 178. Cr.
Jac. 352. 1 Rol.
Rep. 108. Latch.
172, 177. Noy. 88,
89. O. Benl. 180.
Jenk. Cent. 297.
Ley 59. Devant
53. b.

Edward Basset, que per les parols & intention del dit
 braunch del Statute nul person est disable a granter le pro-
 chein avoidance, mes cestuy que est un Popish Recusant
 convict, & pur ceo les parols sont, every person or persons
 that is or shall be a Popish Recusant Convict. 2. Il serẽ
 disable, mes solement durant le temps que il remaine un
 Recusant, car les parols sont, during the time that he
 shall be or remain a Recusant, shall be disabled to grant
 any Avoidance: & pur ceo que al temps de cest grant il
 ne fuit un Recusant Convict, mes solement indite, a cest
 cause il n'est tiel Recusant, come est describe destre disable
 per cest Act, & per consequence le dit grant est bone. Auzp
 serra mischievous si auter construcion serra fait; car mis-
 tomus que un seisie dun abbowson in fee resoit & repaire
 al Eglise selonque les leys in tiel case establie, & pur
 bone consideration grant le prochein avoidance, & puis
 mults ans apres il deveine un Popish Recusant, & de ceo
 soit convict, serra dure, que cest grant serra void, car
 (a) nemo tenetur divinare, & n'est possible que le grantee
 avera prescience de ceo, que est merement un future con-
 tingent; & serra auzp enconter reason q home p son offence
 subsequnt tollet loyal interest vestu p son grant demesne s
 bone consideration vest in un estrang. Mes fuit resolve p totam
 Curiam, q cest Act ad disable cestuy J. Draicot le fitz a fait cest
 grant p les expres poils del Act, queux voillõt appear le plus
 clere si les material poils del Act qnt a cest case soit single a-
 pluy p eux m in cest manner, every person that shall be a Po-
 pish Recusant Convict, during the time that he shall be or re-
 main a Recusant shall be disabled from the beginning of this
 present Session of Parliament to grant any Avoidance; & le
 dit John Draicot est deins tous ceux poils, car 1. ou les
 poils sont every person that shall be a Popish Recusant Con-
 vict, deins qur poils appiert q John Draicot est. 2. Le disabi-
 litie est temporary, s. durant le tẽps de recusancie. 3. De ql
 tẽps serẽ il disable, s. del comencement de cẽ Session del Par-
 liament, issint q cy long cõe il remain Recusant convict, il serẽ
 disable a fait grant del pchein avoidance del comencement del
 Session del Parliament, & (b) summa ratio est quæ pro religione
 facit: & tiels retrospect d'ixs Acts de Parliament avoient ewe,
 & allow p divers judgments; & pur ceo est cite in Plowdens
 Com. inter Stradling & Morgan, fol. 207. a. q ou lestatute de
 (c) 31 H.8.c.13. enact, q le Roy avõa tous les possessions des
 Abbies

(a) Lit. Rep. 98.

(b) 11 Co. 70. b.

(c) Moor 60. pl.

169. Mo. 128, 219,

529, 530, 531, 532.

Larch. 89, 90. Noy

149. Bridgm. 32.

Godb. 392. O. Benl.

148, 157. Benl. in

Kelw. 211. pl. 19.

Benl. in Alh. pl. 19.

N. Benl. 132. pl. 195

1 Co. 24. b. 27. a.

2 Co. 46. a. b. 49. a.

3 Co. 2. b. 7. a. b.

73 b. 5 Co. 55. b.

11 Co. 9. a. 13. a.

12 Co. 45. Co.

Ent. 187. b. 374. a.

445. b. 451. a. 454. a.

546. b. Rast. Ent.

525. b. 527. a. Hob.

227, 228, 248, 306.

Dyer 73. pl. 8. 77.

pl. 40. 80. pl. 61.

103. pl. 1, 2, 3, 4.

123. pl. 35. 206 pl.

11, 13. 231. pl. 1.

277. pl. 60. 280. pl.

11, 12, 13. 349. pl.

16. Rastal Monast.

11. Br. Chose in

Action 14. Br. Pa-

tents 98. Sav. 66.

1 Rol. Rep. 54.

2 Rol. Rep. 142.

171, 174. 1 Leon.

4. 333. 2 Leon.

55. 3 Leon. 164.

4 Leon. 117. Cr.

Jac. 607. Cr. Car.

422, 425. 3 Bullstr.

152. Plowd. 102. a.

173. a. 193. b. 207. a.

1 Jones 2, 185, 373.

Winch. Ent. 642,

&c.

Le Case del Chanc. &c. de Oxford. Part X.

Abbeys que adonques estoient, & que puis viendré en les maines per surrender, &c. in mesme lestate come ils adonques fueront, ad esse adjudge, come la est dit, que si aucun Colledge puis cest statute fist lease pur ans, & mesme le Colledge trois ou quater ans puis sur al Roy, que leur former lease fait devant le surrender serra void, car le Roy abera les possessions in mesme lestate come adonques, cestà-savoir, al temps del Act de 31 H. 8. ils fueront, & adonques ils fueront discharge & free dascun tiel lease: & obe ceo accord Mich. 6 & 7 Eliz. Dyer 231. (a) Labbot de Ramsey obe lassent de son covent jades patrons de Upwel in Corn North in August 31 H. 8. q fust puis lestatute de 31 H. 8. de Monasteries, que commence 28 Aprilis 31 H. 8. grant le prochain avoydance del dit Eglise a Sir Edward Mountague Chivaler jades Chief Justice del Common Bank, & puis in November insuant, le Abbot & Covent sur al Roy, &c. le interest del prochain avoydance per mesme assignements fust convey al un Leds, vers que Beaupre le Patenté del fxe simple per le Roy E. 6. Post Quare Impedit vers leveys & lecumment, & per pleading al rejoindre le case sus appiert, & in le rejoindre le Saving in le dit Act appiert, obe tiel averment que le dit Leds non est nec fuit, nec esse intelligi potest, aliquis talis persona, quæ per, sive in, actu prædicto excipitur; & per lopinion de tous les Justices le grant fust void vers le Roy, & ilint adjudge, & le Saving ne poet estre extend a tiels future interests, mes extend solement al interest in esse, & le Record de cest plea commence Pascha 5 Elizabeth. Rotulo 129. in Comuni Banco; & uncore in mesme le case tous les dits objections queux ont estre faits in le case al barre, puissioient aver estre fait in le dit case de Beaupre. Aup est purveu p lestatute de (b) 13 Eliz. cap. 4. que tous terres &c. de chescun Tresourer, &c. ou person accomptable al Roigne pur aucun office ou charge, &c. queux il adonques aboit ou in apres averoit, shall be lyable, &c. in like and in as large and beneficial manner to all intents and purposes, as if the same Treasurer had the day he became first Officer or Accomptant stood bound by Writing Obligatory, having the effect of a Statute Staple to her Majesty. Et in anno 35 Elizabeth. fust resolve en le case de Sir Christopher Patton jades Chauncelloz Danglerterre, que deveigne tiel officer al Roigne in anno 20. de son Raigne, que si un tiel officer accout bien

(a) 1 Co. 47. a.
Dyer 231. pl. 1.
Benl. in Kelw. 211.
pl. 19. Benl. in Alf.
pl. 19. 2 Co. 49. a.
N. Benl. 132. pl.
195. Plowd. 207. a.

(b) 1 Leon. 98.

& voirement ove le Roign & owa a luy riens, & in anno 22 de son Raigne esteant in cy bone case purchase terre, & in m lan conveya ou lessa ceo aux auters bona fide sur bone & voire consideration, & puis in ann. 32 Eliz. p reason del dit office il deveigne in arerages sur son account p 4 ou 5 ans, q est long temps puis son conveyance ou lease, q uncore la terre issint (a) convey ou lease serf liable a ceux arerages p reason del retrospect des dits parols (as if the same Treasurer, &c. had the day he became first Officer, &c. stand bound, &c. Issint in le case al barre, apres que le dit John Driscot fuit un Popish Recusant Convict, durant le temps q il remaine Recusant il oze serra disable a granter aucun prochain avoiance, per le retrospect del Act puis le commencement del dit Session del Parliament, & les seasoys del Act intendet a insister greindet disabilitie sur eux queux beigne Popish Recusants puis le damnable & damned Powder Treason, que devant.

(a) Moor 127.

¶ Quant al 2. fuit resolve, q (b) covin ne serra unques intend ou presume in ley sinon q soit expressement averf, quia odiosa & inhonesta non sunt in lege presumenda, & in facto quod se habet ad bonum & malum, magis de bono quam de malo presumendum est; & issint fuit adjudge en le case de (c) Meriel Littleton, Trin. 10 Jac. in cest Court, ou le case fuit, q Elizabeth Tirer Executrix del Testament del Thomas Tirer poit action de trespass vi & armis vers Meriel Littleton & John Daunser dun bove price vi. l. al Hagley en le County de Wigorne 20 Octob. anno 7 Jac. &c. les Defendants plead non culp. & les Juroys trove special Verdict, que un Thomas Tirer fuit seisse en fee de 80 acres de terre in Hagley & euf teignoit de John Littleton Armig ut de Manerio suo de Hagley in le dit County per fealty & rent de iii. s. i. d. ob. sect' Cur', & reddend' optimum animal cujuslibet tenentis in feodo simplici post mortem ejusdem tenentis pro Heriotto, de quel Hanoz le dit Meriel Littleton fuit tenant pur vie al temps del mort del dit mort Thomas Tirer, & le dit Thomas Tirer issint esteant seisse 16 die Augusti anno 42 Eliz. Regina per son fait, in consideration de paternal amour a John son fits & heir apparant, & in consideration dun Harriage destre ewe & solemnize inter le dit John Tirer & un Jocolam Grobe, & pur le advancement del dit John, infeoffa le dit John Tirer del dits 80 acres de terre, & aver & tener a luy & ses heirs, al oeps

(b) Cro. Eliz. 292,
816. Bridgm. 112.
Cro. Car. 550.
Jones 20. Moor
194. Cro. Jac. 451.

(c) 1 Brownl. 36.
2 Brownl. 187.
Bridgm. 112.
2 Jones 92.

Le Case del Chanc. &c. de Oxford. Part X.

de luy & ses h̄s, p force de q̄ le dit John fuit ent seisie in son demesne cōe de f̄, & issint seisie in le 16 jour de August ann. 42 ejusd. nuper Regina, p son fait indent, al intent q̄ le dit Joice, ne sert indowe durāt le vie del dit Thomas, redemise les dits 80 acres de terre al dit Thomas pur 40 ans si le dit Thomas videra cy-longeint, & q̄ le 1. jour de September ensuāt le mariage inter le dit John & Joice fuit solemnise, & puis le dit feoffint John Tirer fist suit al court al dit John Littleton Sir del dit Manor, & q̄ puis le feoffint Thomas paya le rent p les dits 80 acres de terre, & puis Th. Tirer, 30 Jun. ann. 7 Jac. Regis moxust esteant possesse del dit bove, q̄ fuit le melior beaft q̄ il ad, & q̄ le Def. prist le bove pro Heriotto post mortem prædicti Thomæ Tirer come due pur les dits tenements, & les Juroz trovont ouster lestatut de (a) 13 Eliz. p avoirding & abolishing de feined, covinous & fraudulēt feoffments, dones, &c. cibien des terres & tenements come des biens & chateur, queux feoffments, dones, &c. sont devise & contrive de malice, fraude, &c. al entent a delaier, hinder, ou defrauder Creditors & auters de lour just & loyal actions, suits, debts, &c. heriots, mortuaries & reliefs, &c. & p̄ t̄ est purveu p le dit Act, q̄ tous feoffments, dones, &c. des terres, tenements & hereditaments, biens & chateur, &c. d̄ee fait al aucun intent ou purpose devant declare & expres, serēt adjudgē & p̄ise (cōe vers le Creditor ou aut person issint defraude & grieve) destre clerement & ousterint void & de nul effect, &c. & si sur tout le matt les dits Heriel & J. Daunloz sont culp. donques ils trove eux culp. & assesse damages a b. l. & costs vi. d. &c. Et cē case fuit argue al bar, & Termino Trin. 10 Jac. Regis fuit argue al bench, & fuit uneint resolve q̄ intant q̄ nul (b) fraud ē trove p les Juroz le Court ne adjudgera le dit feoffint fraudulēt; & comt q̄ les Juroz ont trove circūstances & plumptiōs a intif les Juroz a trove fraud, un̄ t̄ nest forsq̄ evidence al Jury & nemy aīc matter sur q̄ le Court poet adjudgē fraud, & le office des Juroz est badjudger sur lour evidence concernant matter de fact, & sur t̄ a doner verdict, & nemy a layser matt de evidence al Court badjudger q̄ nappiert al eux. Et p̄ t̄ le Chief Justice teignoit, q̄ si A. port Action sur le Case vs B. sur trover (c) & confision de Plate, Jewels, &c. & le Defendant plead non culp. oze est bone evidence prima facie, a prover confision q̄ le J̄l request le Defendant a deliver eux & il refuse, & pur t̄ serēt presume q̄ il ad eux convert a son use, mes uncoze ceo nest

(a) 13 Eliz. cap. 5.
29 Eliz. cap. 5. Co.
Lit. 3. b. 76. a.
290. a. b. Co. Ent.
162. a. 3 Co. 80. b.
5 Co. 60. a. 6 Co.
18. b. Cr. Jac. 270.
271. Yelv. 196, 197
1 Brownl. 111,
112. Cr. Eliz. 234,
645, 810. Dyer
295. pl. 17. 351. pl.
23. 1 Leon. 47, 308.
2 Leon. 8, 223.
3 Leon. 57. Rast.
Fraudulent Deeds
1. Rast. Entr. 207. b.
Lane 47, 103.
Moor 638. Doct.
placit. 200. Latch.
222.
(b) O. Bend. 68. b.
1 Rol. 523. Cr. Eliz.
292, 816. Mod.
Rep. 17, 38. Cr. Car.
550. Hardr. 397.
(c) Cr. El. 97, 495.
Cr. Jac. 245. Cr.
Car. 262. Goldsb.
152. 1 Roll. 5.
Moor 460. 1 Vent.
401. Hob. 187.
1 Sid. 127. 1 Rol.
Rep. 59, 60. Hutt.
10. 2 Bullstr. 308,
310.

neft forsqz evidence, & si soit trobe p special verdict (a) in
 tiel case q le Plaintife request eur del Defendant & il refuse,
 ceo neft matter sur que le court poet adjudger aucun conver-
 sion, car le conffion doit alter le action del Detinue a un
 trespass sur le Case, q un denier ne poet in ley faire, car in
 chescun action de detinue la est alledge in le count un request
 & refusel, uncof est bone evidence come ad esse dit, & issint
 tous foits ad esse allowe a prover conversion q le Plaintife
 demaund les biens, & le Defendant refuse a delivheur. 2. Le-
 statute dit a defrauder creditors & auters de leur just debts,
 &c. heriots: & les Juroys nont pas trobe q le dit feoffment
 fuit fait a defrauder le Seignior de son heriot, & issint ils nont
 trobe le case deins lestatute. 3. Si le firs ust debie in la vie
 del pier, le Seignior avera heriot puis son mort. 4. Est trobe
 que lentent del feoffment & redemise pur ans, fait devant
 le mariage, fuit al intent que le dit Joice ne serroist endow
 durant la vie del pier, mes que apres son mort que el serra
 endow coment que la firs ust debie in la vie la pier: quel
 feoffment esseant trobe per les Juroys destre fait in conside-
 ration del mariage, & a cest particular intent concernant le
 dower del feme del firs, ne serra p construction in ley extend
 a aucun auter entent. Et sur 7 le Chief Justice mitte le case
 in Mich. (b) 9 & 10 Eliz. tenant le Roy in capite, son firs &
 heir apparant de 7 ans, est in det a divers, & implead pur les
 detts in dñs Courts, & fearing le hinderance & impoverish-
 ment de luy in la feme & infants p extent de ses terres, &c.
 pur execution de les dñs debts infeof dñs persons sub con-
 ditione q quant il ou les heirs paief al feoffees 30 l. que
 donques ils feront tiels feoffments & a tiels uses cōe il ou les
 heirs limitef, ou appointef ou auterment le feoffment serf boide,
 &c. & cest feoffment & intent est trobe p Mandamus return in le
 Chancery & qd' nulla alia causa, intentio aut collasio, viz.
 ad defraudand' Regem, &c. de custodia hæredum vel terra-
 rum: & cōit q cest feoffment fuit trobe dēe fait p fraud & cobin
 (q est tous foits illayal) unē intant q le fraud fuit a un par-
 ticular intēt, s. a defrauder creditors, & ne serf extend a aucun
 aut fraud, s. a defrauder le Roy de son gard, cōit q in verity
 & p le event, per cest feoffment le Roy fuit defraud del gard
 del corps & del fre, & issint fuit resolbe & decree in le Court de
 Cards: à fortiori qnt est trobe q cest feoffment in le Case de
 Meriel Lit. fuit in consideration de Marriage & de advance-
 ment de son firs, & q la feme del firs serf indowe vers luy

(a) Hardres 48.

(b) Cowly 231.

Le Case del Chanc. &c. de Oxford. Part X.

& nemy vers l'auter, queux tous sont loyal considerations, le Court ne extendra t̄ a un illoyal intent, ne adjudgera sur tout le matter trobe in cest case q̄ le feoffment fust fait a aucun auter intent que est trobe per le Jurie.

¶ Quant al 3 objection in le case al barf, t̄ fust resolve & r̄solv̄e 3 voies : 1. In un Act de Parliament misnommer dun corpoꝛat, q̄nt l'expres intenc̄on appiert, ne avoide l'act, n̄ist plus q̄ in un volūt; car Parliament, Testament, & Arbitrament, sont d̄ce prise solonḡ les m̄ers & intenc̄ons de ceux q̄ sont pties a t̄ : & p̄ t̄ q̄nt le descript̄ dun corpoꝛat in un Parliament ou in volūt, est tiel q̄ le voier corpoꝛat int̄d, est apparāt, & n̄est possible d̄ce intend d'aucun auter corpoꝛat, com̄t q̄ le d̄oit nomme de corpoꝛat (q̄ est requise d̄ce expresse in grants & faits) ne soit p̄ciseint plus, un̄ l'act de Parliament, & volūt p̄nd̄ effect. Et p̄ t̄ in (a) 21 R. 2. tit. Devise, pl. 27. ou un debisse t̄tain tenehts in Londres p̄ vie, le rem̄ ouster Ecclesie S̄ci Andreæ de Holborn, est adjudge la q̄ cest debisse est bon al corpoꝛat del p̄son del Eglise de St. Andrew in Holborn & les Successors, car tiel descript̄ fust sufficiēt in un volūt a expresse le p̄son del Eglise & les Successors : pari ratiōe si debisse soit fait al Un̄iversity de Oxford, ou al City de Lond̄, ou al (b) Trinity Colledḡ in Cambridge, &c. tiel debisse ē done, & in t̄ le voier nomme del corpoꝛat sert̄ imply, car p̄ ceux descript̄s le intent del debissor est apparāt, q̄ le corps incorpoꝛate de ch̄est de eux p̄nd̄. Il̄sint icy, q̄nt le Parliament d̄oit le benefice al Chācelloꝛ & Scholars de Oxford & leur Successors, c̄e descript̄ ē sufficiēt a expresse l'intent del feoffors del Act, q̄ le incorpoꝛat del un̄iversity de Ox̄. q̄ ad Chācelloꝛ & Scholars t̄ p̄nd̄; & nul aut corpoꝛat poet̄ t̄ p̄nd̄ : 2. Le record̄ ē bien, car l'act est plead̄ si c̄oe le benefice ad ēe done p̄ le dit Act expresseint (c̄oe est imply in ley) al Chācelloꝛ, Masters & Scholars, & le Def. ad demur̄t in ley sur t̄, & issint cōfesse t̄ : 3. Cest clause q̄ done c̄e benefice al un̄iversity de Oxford est un (c) p̄vate clause dont les Judges sans pleas de ceo ne poient p̄nd̄er notice, & pur ceo q̄e les Judges voient p̄nd̄er ceo come ceo est plead̄.

¶ Quant al 4 objection, inspecto recordo appiert q̄ les P̄ ad ādre t̄ feoffment; car ap̄s t̄ q̄ ils ont alledge q̄ le dit John Draicot le f̄its Papalis Recusans Cōvict̄ ils ont dit, ac p̄rad. J. Draicot de Manes p̄rad. cum p̄tiñ ad qd', &c. in forma p̄rad. sc̄i-fito existēti & Papalis Recusans Cōvict̄ in form̄ p̄d. existens & remanēs, Eccl̄a p̄rad. vacavit p̄ mort̄ p̄rad. Georgii Eyre : mes si les P̄ nont t̄ ādr̄, le Court fust d̄opinion q̄ le count n̄ad̄ este

(a) Hob. 32.
Plowd. 345. a.
523. b. Br. Cor-
poration 77. Perk.
Sect. 509.

(b) Hob. 32.

(c) 2 Roll. 466.
Plowd. 65. a.
Hob. 227. 1 Syd.
24.

este sufficient, pur ceo q' ils n'avoient enbable eux in a pren-
der benefit del dit Act, & ne besoigne a eux d'aver que il un-
coze continue & (a) remaine recusant, car q'sit un fois le
presentation hac vice fuit deff in le University, coment que
apres le recusant confoyme luy mesme, ou mozt, uncoze le
University presentera.

(a) Hob. 126, 127.
Jones 18. —
Doct. placit. 333.

Trin. xi Jac. Reg.

Levesque de Sarum's Case.

Palmer 483.
1 Jones 264.

IN Brief de Second Deliverance port per Simon Stanton & Henry Knap vers John Green de pñsel de 127 Verbits al Bletbery in un lieu appeal le Personage Hay in le County de Dorset ; le Defendant dit que le lieu ou ec. contain 60 acres, & avowa le pñsel pur ceo que John Evesque de Sarum, fust seissie del Manor de Sherborne in le County de Dorset, dont le lieu ou, ec. fust parcel in son demesne come de Fee come in droit de son Evesquery, & issint seissie ultim' Septemb. ann. 27 Eliz, per son fait cy monstre avant, grant al Edward Green & al dit John Green & eorum utriq; officium supervisoris omnium Maner suorum, &c. in Com. Wiltes. Dorset. Berk, & South. & alibi infra Regnum Angliæ, per eur & leur Deputies pur queur ils voissent responder, a aver & tener a eur, &c. pur terñ de leur vies : Et ouster per mesme le fait granta a eur rent de 20 nobles per annum issuant hors del dit Manor de Sherborne, ove diet & reasonable expences pur eur & leur Deputies, equitando & alias occupando, arbitrio ejusdem Episcopi & Successorum suorum, aut Auditorum eorum, ove clause de distress si debito modo petatur ; & q̄ le dit grant fust confirme per le Dean & Chapter 5 Septemb. 28 Eliz. in le vie del dit John Evesq de Sarum, quodque prædictum officium, est antiquum officium, quodque dictum officium una cum prædicto feodo vi l. xiii s. iv d. &c.

con-

cess. fuerunt p præd. Johān Episcopū Sarum & Prædecessores suos tali personæ vel personis quibus sibi placuerit, & mfe le mort de Edw. Green, & q il demand le rent, & pur default de paymēt distraine, &c. In (a) barf de qī abowry le JP plead lestatute de 1 Regina Eliz. p q est enaā, That all Gifts, Grants, Feoffments, Fines or other Conveiances or Estates, from the first day of this present Parliament, to be had, made, done or suffered by any Archbishop or Bishop, of any Honors, Castles, Manors, Lands, Tenements, or other Hereditaments parcel of the Possessions of his Archbishoprick or Bishoprick, or united, appertaining or belonging to any of the said Achbishopricks or Bishopricks, to any person or persons, &c. ut in statuto, & plead ouster quod nec officium prædict. nec annualis redditus præd. ante concessionem præd. &c. unquam concess. fuerunt p eundem Episcopum vel aliquem prædecessorum suorum pro aliquo longiore tempore quam unius vitæ, p quod concessio præd. per præd. Johannem nuper Episcopum Sarum vigore actus prædicti vacua fuit, &c. Sur quel barf al Abowry labowant demurr in ley, & fuit a divers jours p les Serjeants argue al Barr, & oze in mesme cesty Term fuit argue per les Justices al Bench. Et divers exceptions fuet prise al barre del Abowry per le council de abowant.

¶ 1. Que labowant in son Abowry ad alledge p matter in fact, q le dit office avoit estre grant a tiel person ou persons come pleist al Evesque, &c. & le Plaintife in son barr ad plead in le Negative, que le dit office, &c. nad estre grant forsq pur vie del un, &c. & p t il doit aver conclude, & hoc quærit quod inquiratur p patriā, mes si ad cōclude tout son plea & hoc paratus est verificare, &c. & non allocatur. Car labowant nad alledge q le dit office ad esse grāt, &c. a divers persons, mes a tiel person ou persons come pleist al Evesq, & in (b) disjunctivis sufficit alterum esse verum. ¶ 2. Autre exception fuit prise al barf del Abowry, q nappiert p le barf al Abowry q John Evesq de Sarum le grantor fuit mort, & serf intende q il est in vie, pur t q le plea de chescun serf prise plus fort vers luy, (c) ambigua responsio contra proferentem est accipienda, & donques si soit in vie, le grant del dit office a 2 fuit bone, comt q ne unqs t avoit est grāt a 2 devant, & liera levesq in p son temps, come ad ee ad judge in 32 & 33 Eliz. in cest Court inter (d) Sale JP & Levesq de Coventry & Lichfield Def. in Quare Imp. & P. 39 El. inter (e) Hunt & Singleton 3 qux cases poies veier cite en Lin.

(a) Palmer 483.

(b) Co.Lit. 225.a.

Hawks Max. 12.

(c) Co.Lit. 303.b.

Hawks Max. 27.

(d) 3 Co. 59.b. Cr.

Eliz. 141, 207.

1 Leon. 205. Sav.

94. Owen 99.

1 Anderf. 241.

(e) 3 Co. 60.a. Co.

Lit. 45. a. b. Cro.

Eliz. 473, 564.

3 Keb. 109. Mod.

Rep. 205. Carter

13, 16. 1 Vent. 247.

1 Rol. Rep. 152,

154, 159, 169.

Levelque de Sarum's Cafe. Part X.

Lincoln Colledge Cafe in le 3 part de mes Reports fol. 59, & 60. queux cases fuef affirm pur bone ley per le Court. Sed non allocatur exceptio, p̄ t̄ q̄ appiert al Court q̄ le dit John ne fuit oze Evesq̄ de Sarum. Car le Plaintife in son barre al avowry conclude, per quod le dit grant per prædicti Johannem nuper Episcopum Sarum vigore actus prædicti fuit void, le quel labowant per son demurf ad confesse; & ceux parols per prædictum Johannem (a) nuper Episcopum Sarum impliont & important q̄ oze il nest Evesq̄ de Sarum. Vide semble implications 13 Eliz. Dyer 304. (b) & (c) 14 Eliz. 306. b. issint in 10 E. 4. fol. 18. b. (d) si in trespass le Defendant plead in barre, q̄ B. lessa a luy la terre in que, &c. a volunt, p̄ force de q̄ il enter & fuit & uncoze e ent possesse p̄ force del lease a volunt, ceo simply q̄ le lessa est in vie, car sil fuit mort le lease fuit determine, & donques il ne poit estre possesse per force de ceo.

- (a) Doctrin. placit. 247. Apres 62. a. 1 Rol. Rep. 50. Cro. Car. 401.
(b) Dyer 304. pl. 52. 2 Bullstr. 79. 263. Palm. 509. Cr. Jac. 622. Moor 376. Cr. Car. 401.
(c) Dyer 306. pl. 66.
(d) Doctrin. placit. 247. Palm. 268.
(e) Hob. 44. Cr. Car. 500.

Auter exception fuit prise al avowry, cessassavoit, que le alleddging de ceo desfre (e) antiquum officium fuit trope general & incertain, mes doit aver prescribe in ceo, ou monstre plus certainy que oze il ad fait; & fuit tenuz bone exception: & cest diversity fuit prise inter le allegation del convepance al matter, & le matter mesme, come in (f) 11 H. 4. 89. a. b. la un, a conveper a luy title a un Lēt, prescribe q̄ il & tousz ceux q̄ estate il ad in le Hundred ount ewe un Lēt, &c. & bene, car le prescription in le Hundred nest q̄ convepance: & ove ceo accord (g) 19 R. 2. tit. Action sur le Cafe 51. mes quant il claim aucun chose q̄ gist in grant p̄ prescription originalment de soy mesme, il ne poet prescribe in ceo per un q̄ estate, come (h) Littleton teigne f. 41. (g) 21 H. 7. 15. a. &c. issint quant un boille pleader custom in un ville, suffist a dire q̄ fuit antiqua villa, & monstre le Custom. Vide 22 H. 6. tit. Prescription 47. & 6 E. 6. Dyer 71. Issint dun office sil claim aucun chose pertenant al office, suffist a dire quod fuit antiquum officium, mes quant il claim l'office m̄ nest sufficient a dire quod est antiquum officium.

- (f) 11 Co. 44. b. 1 Rol. Rep. 76. 2 Inst. 71. Fitz. Avowry 57. Br. Distress 18. Br. Que Estate 9. Co. Lit. 121. a. Cart. 31.
(g) Carter 31. Co. Lit. 121. a.
(h) Lit. Sect. 183. Cart. 31.
(i) Dyer 71. pl. 45.

Et quant al matter in ley fuit object q̄ le dit grant fait per le dit sades Evesque de Sarum, esseant confirm per le Dean & Chapter, ne fuit restrain per le dit act de 1 Eliz. pur divers causes: 1. Que cest case fuit hoys del parols del Act, car ceo ne fuit aucun pt des possessions del dit Evesquery, ne ptainant a ceo: 2. Semble a eux q̄ riens est restraine mes tiels hereditaments, dont sur demise fait pur 3 vies ou 21 ans

ans solongz lestatute, un rent poet estre reserve, car les parols del Act sont, other than for the Term of xxi years or three Lives, &c. whereupon the old and accustomed yearly Rent or more shall be reserved, &c. & in cest case nul rent (a) poet estre reserve. 3. Diversity fuit prise inter office in esle in droit de son Evesquerie, car ceo poet estre dit parcel de ses possessions, & tiel office q levelez mesme ne poet exercise ne poet estre dit parcel de ses possessions. 4. Si grant pur 2 vies obe launcient fee serra per construction del statute restraine, donques p consequence grant pur un vie solement serra auxy restrain; car p queux parols ou construction serra grant p deux vies del dit office obe launcient fee restrain, & nemy pur un vie? Mes fuit unement resolve per totam Curiam, q le dit grant del dit office p deux vies fuit void vers le Succesor p le dit Act de 1 Eliz.

(a) Co. Lit. 47. 2.

Et in largument de cest case 4 choses fueront consider.

¶ 1. Que fuit le common ley debaunt aucun statute en fait.

¶ 2. Quel alteration lestatute de (b) 32 H. 8. c. 28. ad fait.

¶ 3. Que est fait p le dit Act de 1 Eliz. ¶ Et darreinist si le dit grant a 2. del dit office, soit restrain per le dit Act de 1 Eliz. vers le Succesor. ¶ Et quant al premier fuit resolve,

q al common ley levelez obe le consent del Chapter poient per lout Charters de feoffment, grants ou leases, lie lour Succesors; & pur ceo tiel grant a 2. del office avantdit pur

lour vies; aboit esse bone per le common ley, coment que ne unques fuit grant a 2 devant: in que fuit observe le pu-

dence del sages del ley, q nul sole corporation fuit unques trust obe le disposition de les possessions, quant a lier de

les succesors; mes in tiel case ils cobient daver les consents des auters, come levelez de son Dean & Chapter, le Abbot

le consent de son Covent, le Parson le consent del Patron & Ordinary, & sic de ceteris. ¶ Quant al 2. lestatute de 32 H. 8.

ad enlarge le power del Evesque; car per cest Act il poit faire lease pur 21 ans, ou trois vies, obe divers limitations:

1. Que chescun viel lease soit expire ou surrender deins un an &c. 2. Que le terre cobient estre puis comunement demise

al ferme per le space de 20 ans, &c. & ceo levelez solement poit faire per fait Indent pursuant les limitations del statute

sans le Dean & Chapter.

¶ Quant al 3 & 4 point fuit resolve, que per laci de primo

Eliz. les Evesques sont generalment restrain a faire aucun

estate ou interest d'aucun terre, tenement, ou hereditament pcel

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

de

(b) 3 Co. 50. b.

5 Co. 2. b. 4. a. 5. a.

6. a. 6 Co. 37. a.

7 Co. 7. b. 8 Co.

34. a. 72. a. 9 Co.

140. b. Co. Lit.

44. a. 333. a. Plowd.

112. b. Rastal

Leases 2. Dyer 72.

pl. 3. 162. pl. 48.

191. pl. 22. 246.

pl. 69. 271. pl. 28.

357. pl. 43. 363.

pl. 26. Savil 85.

pl. 165. Cr. Jac. 173.

Cr. Eliz. 350, 602.

Cr. Car. 22, 44, 435.

1 Rol. Rep. 159.

163, 230. 2 Rol.

Rep. 169, 311, 332.

405, 410, 491, 499.

Hob. 204. Latch.

45. Bridgm. 28.

Moor 58, 759, 783.

1 Leon. 59, 148.

3 Leon. 132, 156.

1 Jones 60. 2 Inst.

342, 681. Godb.

102. pl. 119. 3 Keb.

381.

Co. Lit. 44. a.

Bridgm. 29.

Levesque de Sarum's Case. Part X.

Co. Lit. 45. a.
Degge 111.

Bridg. 30. Moor
105. 1 Anderf. 65.
pl. 140.

Co. Lit. 44. b.

Co. Lit. 47. a.

Devant fol. 59. a.
Co. Lit. 45. a.

Moor 253.

2 Rol. Rep. 169.

de son Evesquerie, ou dascun charge, ou incumbrance hors de l' ou dascun autre chose in leur disposition, a lier le Successor, mes seulement un lease pur 21 ans ou 3 vies de tiels terres, tenements & hereditaments, queux ount este usualment demise, & sur q le usual rent serf reserve solongz le dit Act de 1 Eliz. Et s'is sont lease dascun terres usualment demise, & reserve le usual rent solongz lestatute de 1 Eliz. uncoze si tous les limitations prescrive per le statute de 32 H. 8. ne sont pursue, come si ne soit tout in possession, ou que le veile lease ne soit expire ou surrender deins un an (que nest prohibite p lestatute de 1 Eliz. come suit adjudge in Foxes Case) donques tiel lease ne lyera le Successor si non q ceo soit confirm p le Dean & Chapter, car lestatute de 1 Eliz. ne enhable aucun Archievesq ou Evesqz soleint a faire aucun lease. Et tiel construction ad este fait come est avantdit, a disabler levesqz a faire aucun chose sinon a faire leases pur 21 ans ou 3 vies (come est avantdit) concernant levesquery a lier son Successor, come grant de prochein avoydance p levesqz dun benefice al autre, coment que soit confirm per le Dean & Chapter, est restrain per lestatute de 1 Eliz. a lier son Successor, come sobent foits ad este adjudge, pur ceo que fuit tiel hereditament sur que rent ne poet estre reserve, car tout ceo que nest permette per l'exception, s. other than, &c. est restrain quant al Successor per general purview del Act: Mes tiel grant liera levesqz mesme nient obstant que lestatute dit que terra void a tous entents, constructions & purposes, car les sealoys del Act entendent non soleint advancement de religion, quant professeurs de Divinity averont duplicem honorem, s. honorem reverentia, & honorem beneficentia, mes auxy encrease de bone hospitalite & avoirding de dilapidations & ruine del Eglise, queux le Successor si les Ads de son Predecessor liera luy ne serf able a reedifier ou repairer: & p l' les sealoys del Act regardont puis tost le succession q levesqz mesme. Vide Elmers Case in le 5 part de mes Reports, fol. 2. a. & Jewels Case ibidem fo. 3. a. Le Case de Ecclesiastical persons ibid. fo. 14. a. b. 15. & Eitrues Case, & disys autres cases sur lestat de 13 Eliz. c. 10. concernant Deans & Chapters, &c. q le statute est cousin germaine a ce Act de 1 Eliz. & ceux poys in le Act de 1. parcel of the Possessions of his Archbishoprick or Bishoprick, or united, belonging or appertaining to the said Archbishoprick or Bishoprick, & poet estre bié & aptment dit que le done & disposition de cest office & tous autres

autres semblables sont belonging al Archievesquery ou Eves-
query: Car coint q Levesqz mesme ne poet exercise tiel (a) of-
fice luy mesme, uncoze il ad inheritance in le done & disposi-
tion de t, come est tenus in Roger Countee de Rutlands Case
in le 8 pt de mes Reports f. 55. b. Et ceur poiz (b) belonging
to the Archbishoprick or Bishoprick, serf prise p, concerning
the Archbishoprick or Bishoprick: & p t si brief (c) Dannui-
ty soit port vs Evesqz sur title de pscriptio, ou autermt, &
judgmt soit done vs luy sur vdit ou confession, t est re-
strain p cest act, p t q Levesqz est charge ove le annuity in
respect de son Evesquery, & p t le successor serra charge ove
les arrearages incurre in la vie del predecessor, come est
agree in (d) 21 H. 7. 4. a. b. 34 E. 3. Scire fac. 254. 48 E. 3.
26. a. b. 22 H. 6. 10. 33 H. 6. 44. & uncoze lannuity nest issuant
hors del Evesquery, come appiert in (e) 10 H. 6. 10. b. &
(f) 10 E. 4. 10. a. Mes p t q t concern Levesquery & tend al
(g) diminution del revenues & depauperation des successors,
t est restrain p lestatute de 1 Eliz. Donqs a rñder al objectio
q ad este fait, p quoy serra grant del dit office al un solemnt
bone? A t sult rñde & resolve p tout le court, q si (h) le
office ad este ancienst & necessary, le grant de t ove lancien
fee nest pas ascun diminution del revenue, ne de pauperation
del successor, & p t p necessity tiels grants sont p constru-
ction exempt hors del general restraint de cest act de primo:
Car come Bracton dit f. 247. a. (i) Illud quod alias licitum
non est, necessitas facit licitum; & (k) necessitas inducit pri-
vilegium quod jure privatur. Et si Evesques naveront
power a granter tiels offices de service & (l) necessity, p le
vie de les Quantees, mes que lour estates dependet sur
incertainties, come sur le mort, translation, &c. del Eves-
que, donques les pluis sufficient persons ne voillent eur
serber in tiels offices, ou al meins ne voille discharger
lour office ove ascun (m) alacrity, sils nont tiel certainty del
estate pur terme de lour vies come lour predecessors in
mesme les offices avoyent. Mes quant (n) lancien office
ad este grant al un, nest de necessity a granter t a 2. & pur
t tiel grant nest exempt hors del general restraint, nient
pluis q si Levesqz grant un office ove lancien fee (o) al un
& puis il grant t (p) in reversion al auter, t est restrain per
lesta.

(a) 8 Co. 55. b. Co.
Lit. 3. b. Bridgm. 30.
1 H. 7. 29. b. Br.
Prærogative 125.
Br. grant 83. 10 H.
7. 18. b. Fitz. grant
32. Plowd. 381. a.
379. b.

(b) Bridgman 30.
Ley 78.
(c) 5 Co. 14. b. Cr.
Car. 49. Bridgm. 30.
11 Co. 69. b. 1 Rol.
Rep. 152, 155, 158,
160, 164, 166, 171.
Hob. 97.
(d) Bridgm. 30.

(e) Bridgm. 30.
(f) Davis 5. b. Br.
Scire fac. 179. Br.
annuity 36. Fitz.
annuity 13.
(g) Ley 71, 73.
Bridgman 30. Cr.
Car. 49. Co. Lit.
44. a.
(h) Cr. Car. 557.
Bridgm. 30. Co.
Lit. 44. a.

(i) Bridgm. 30.
(k) Bacons Ele-
ments 25. 5 Co.
40. b.
(l) Bridgm. 31.

(m) Bridgm. 30.
(n) Cr. Car. 259.
Bridgm. 31. 1 Jones
264.
(o) Cr. Car. 279.
557. Bridgm. 31.
1 Jones 264.
(p) Dyer 80. b. pl.
58. 259. pl. 18.
11 Co. 4. a. March
Rep. 41. Cr. Car.
279. 8 Co. 55. b.
2 Rol. 154. Co. Lit.
3. b. Hob. 150, 151.
4 Inst. 202.

Levesque de Sarums Case. Part X.

- (a) Bridgm. 31. lestatute, quia nesci de necessity, & si Levesque poet granter tiels offices a (a) 2. il pult granter euz sans aucun limitation de vies, & p consequence in infinitis; & issint il poet granter al un (b) reversion, il poet granter al auters sans aucun limitation, & per autiel reason il pult granter in tail, ou in fee, que serra tout ousterint encounter l'entention del dit Act de 1. & de tiel opinion fuit Popham Chief Justice, Michaelis 44 & 45 Eliz. in (c) Scamblers Case, Vide 23 Eliz. Dyer 370. (d) Wome Evesque de Winchester puis lestatute de 1 Eliz. grant al Doctor Dale pur vie rent hors del Mannor de Waltham pro consilio, &c. Levesque mozt, Doctor Dale pur ceo que le rent fuit void per le mozt del grantor, port Brief de Det pur les arrerages incurre in son vie vers les exetutoys: in que deux points sont dest oblerbe, lun que le grant ne fuit void vers Levesque (e) mesme; l'auter que coment que le rent fuit issuant hors des possessions & nemy parcel, ceo fuit void per son mozt. Trin. 30 Eliz. Rotulo 346. en cest Court, Levesque de Chester puis lestatute de 1. grant al George (f) Bolton un annuity de 5 marks per annum pur son vie pro consilio impenso & impendendo, que fuit confirme per le Deane & Chapter, & puis Levesque mozt, Bolton port brief Dannuity vers le successeur, & in son Count avert que les predecesseors del Evesque avoyent grant reasonable fees (g) (mes ne averre q cest fee avoit estre grant devant) & averre q il fuit, homo consiliarius & in lege peritus, & l'opinion del Court fuit encounter le Plaintiff, & pur ceo il ne unques avoit judgment: Mes la fuit resolve, que cosit que le dit Evesquery fuit (h) foundue de tardiff temps, cessascavoir, in temps Henrici octavi, uncoze grant de offices de necessity al un en possession ove reasonable fee (le (i) reasonableness de q serra decide per le Court de Justice in que ceo dependera) est bone, & come ad esse dit, exempt hors del general restraint del dit Act. Et le Court ne pult aucun regard a ceo que nappiert quant Edward VIene un des grantees mozt, car admit que il mozt en la vie del dit John Evesque, issint que ore vers le successeurs un solement ad office, uncoze le grant per force del dit Act de primo est void quant al successeurs, quia quæ malo
- (c) Cr.El. 636, 637. Cr.Car. 49, 50. Co. Lit. 3.b.1 Rol. 731. 2 Rol. 153. Bridgman 31. Ley 74, 76 (d) Cr. Car. 49. Bridgm. 31. Dyer 370. pl. 62.
- (e) Co. Lit. 45. a. Cr.El. 473, 564. Devant 59. a. 60. b. 3 Keb. 109. Mod. Rep. 205. Cart. 13. 16. 1 Vent. 247. 1 Rol. Rep. 152. 154, 159, 169. (f) Cr. Car. 49. Bridgm. 31. Ley 72, 73, 75. Hard. 354.
- (g) Bridgm. 31.
- (h) Bridgm. 31. Co.Lit. 94.a.
- (i) Bridgman 31. Co.Lit. 56.b. 59.b. Cr. Car. 48, 196. 1 Rol. 523. 2 Rol. 578. 1 Rol. Rep. 33. Cr. El. 351, 779. Moor 623. 4 Co. 27.b. 11 Co. 44.a. 13 Co. 3.1 Brown. low 186, 187.

(a) malo inchoata sunt principio, vix est ut bono peragantur exitu, & (b) quod initio non valet, tractu temporis non convalescit; & lestatuf de primo Regina Elizabethæ avoit al temps del grant adjudge t void quant al succesor q nul accidit subsequnt poet fair bone, nient plus q si un Evesq fait lease de tre p 4 vies, & lun mozt in son vie, issint q oze ne sont q trois vies, & puis il mozt, uncoze t ne lpera le succesor, comt q tous aus chos requisit p lestatute de 32 H. 8. sont observe,

(a) 4 Co. 2. b. 11 Co. 78. a. 2 Jones 73. 2 Bulstr. 43, 192. (b) 4 Co. 2. b. 90. a. Cawley 214. 8 Co. 135. b. Davis 32. a.

¶ 5. Fuit resolve, q le grant dascun ancient office al un obe lancient see p un Evesq ne liera le succesor, si non q ceo soit confirme per le Dean & Chapter, car tiels grants ne sont, come appiert devant, restrain per lestatute de primo Elizabethæ & p ceo remain al Common Ley, & per consequence doient estre confirme per le Dean & Chapter.

¶ Aury nul regard fuit prise per le Court, que ne appiert q le dit John Evesq fuit mozt, car (c) nuper Episcopum poet implier un translation ou auter remotion, cibien come mozt, mes t est tout un; car soit il translate, depose, ou auterment remove, le grant est void vers le succesor.

(c) 1 Rol. Rep. 50. Devant 59. b. Cr. Car. 401. Doctrin. placit. 247.

¶ Darreinist, comt q nappiert q la fuit ascun succesor al temps del distres (car posito q ne fuit ascun succesor adonques fait) uncoze t nest material, car le grant determine p le mozt ou remotion del dit John Evesq. Et puis in mesme cesty term judgmt fuit done pur le Plaintiff Simon Stanton & Henry Knappe, & ds le dit John Grene q claimie le dit office.

Nota Lecteur, le subject de cest case est petit, mes le consequence grand, & ou per force dun exception in le dit act de primo Regina Elizabethæ ascun Archievesq ou Evesq poet obe le consent del Dean & Chapter convey ascun de lour possessions al Roy, ses heirs & successeurs dascun estate queuncqz, nostre (d) Seignior le Roy que oze est, de son piety & devotion al religion, & p le honour de t, & q tiels possessions q fuet dones p les noble Progenitoys Roys Dengleterre, ne serra condt al private uses, ad a s pnt pliant & p authority de t restrain eux a fair ascun conveyance ou estate ou a luy m, ou a ascun de ses hrs & successeurs.

(d) 1 Jac. 3. Co. Lit. 44. a.

Levesque de Sarums Case. Part X.

Et issint vous apprendres queux aas un Archevesque ou
Evesque poet fair concernant lour possessions sans lassent
del Dean & Chapter, & queux poet fair obe le Dean &
Chapter, & queux il ne poet fair oye, coment que soient obe
le consent de lour Deans & Chapters.

Hill. x Jac. Regis.

Whistlers Case.

IN Quare Impedit int^r John Whistler Sen^r PR & John Evelyn de Drogh & Isaac Singlet^r Clerks Defendants, p^r Leiglise de Whitechurch in Com^o Drogh, le case sur le special p^rdit fuit tiel. Le Roign (a) Eliz. fuit seisie (a) 2 Rol.Rep. 179 del Manoz de Whitechurch a q^o laddowson del Eglise de Whitechurch fuit app^redat in son demesne come de fee come in droit de son Corone, & issint seisie 24 April. anno 9 Eliz. p^r les Letters Patents demise le dit manoz obe lappurtenances al William Smith except adbowsons des Eglises, &c. p^r 21 ans, & puis le Roign 22 die Maii anno Regni sui 27. recitant le dit demise del dit manoz al dit William Smith obe lexception del adbowson, fist aut demise in re^rssion al dit William Smith del dit manoz obe les appurtenances except laddowson, & puis le Roign Eliz. mo^rust, & le Roy q^o ore est in consideration de service, ac ex certa scientia & mero motu grant al Sir George Howme Ch^rr (b) totum illud maneriu^m (b) 2 Rol.Rep. 179 sive Dominiu^m de Whitechurch in Com^o nostro Oxon cum suis juribus, membris, & p^rtiis universis, Ac omnia & singula domos, edificia, &c. & hereditaria nostra quacunq; p^rad^r manerio sive dominio de Whitechurch sive alicui inde p^rcell^r quoquo modo spectan^t sive p^rtiis cuidam Willielmo Smith p^r literas patentes dict^rae nu^m p^r Reg. Eliz. sub magno sigillo suo Angliae p^r tmino 21 annos, (c) exceptis quae in eisd^e literis patentibus (c) 2 Rol.Rep. 167 excipiuntur, mentionat^r fore dimiss^a. ac postea p^r alias literas patentes, & mentioⁿ le lease in re^rss^a, & in q^o est auxy autiel clause exceptis q^o in eisd^e literis patent^r excipiuntur mentionat^r fore

2 Rol. Rep. 280.

dimissa, Ac ulterius de uberiori gratia nostra speciali, ac ex certa scientia & mero motu nostris, damus & concedimus præfato Georgio Howme Militi hæredibus & assignatis suis imperpetuū omnia & singula mesuagia, &c. tenementa prædicto manerio sive Dominio de Whitechurch quoquo modo spectant sive ptiis, &c. Damus ulterius, & p præsentēs p nobis hæredibus & successoribus nostris, cōcedimus p̄fat' Georgio Howme Militi hæredibus & assignatis suis imperpetuū præd' maneriū sive dominiū de Whitechurch ac cætera omnia & singula præmissa superius p præsentēs concessa cum eorum ptiis universis adeo plene & integre, & in tam amplis modo & forma prout ea omnia & singula præmissa aut aliqua inde parcella ad manus nostras, &c. devenerunt, ac in manibus nostris jam existunt.

(a) Stamf. Prærog.
41. b. 1 Co. 50. a.
2 R. 3. 4. b. 41 E. 3.
5. b. Plow. 252. a.
17 E. 2. c. 15. 8 H. 7.
2. a. 43 E. 3. 22. a.
38 H. 6. 34. b.

(b) Moor 881.
Hob. 170.

(c) Hob. 170.
Moor 881.

Hob. 170.

Et, si laddowson appendant al dit Manor de Whitechurch passet p ceur letters patents ou nemy, fuit le question. Et divers objections fueront faicts al barre q laddowson ne passet: 1. Pur ē q nul expresse mention fuit fait del addowson, & est enact p lestatute de prerogativa Regis cap. (a) 15. Quando Dñs Rex dat vel concedit alicui manerium vel terrā cum ptiis, nisi faciat in charta sua vel scripto expressam mentionem de feodis militum, advocacionibus Ecclesiarum & dotibus cum acciderint, ad præd' manerium vel terram ptiis, tunc hiis diebus Rex reservat' sibi eadē feoda & advocat' cum dotibus, licet inter alias psonas non fuerint observata. Et in cest case le Roy ne fist expresse mention del addowson. Le 2 reason fuit, q quant le Roy p̄miserit grant le Manor de Whitechurch, (b) cum ptiis, sans fait mentio del addowson, ē tant in judgint del ley cōe si laddowson p expresse p̄ols ust est except, & donq̄s qnt p le darrein clause le Roy grant præd' manerium cum ptiis ac cætera omnia & singula præmissa superius p præsentēs concessa cum eorum ptiis universis, (c) adeo plene & integre, &c. cest pol (præd') ad reference al manor mention devant, q̄l manor fuit grāt sans laddowson, & p cest clause esteant restrain p cest pol (præd') & p ceur p̄ols (& cætera omnia & singula præmissa superius per præsentēs concessa) laddowson ne passera, & uncoze padventure (cōe fuit dit) si in un m̄ clause le Roy ad grant totū maner' nostr' de Whitechurch in Com' nostro Oxon' adeo plene & integre, & in tam amplis modo & forma put idem maneriū ad manus nostras devenit & modo in manibus nostris existit, & puit passer. 3. Fuit object q loxiginal grant est restrain p cest parol (illud) manerium, & p ceur parols subsequents, cuidam

cuidam Willielmo Smith p literas patentes, exceptis q̄ in eisdem literis patentibus excipiuntur, mentionat fore dimissa & cōcessa, in q̄l demise al Smith laddowson fuit expressit except, & issint sur le mat̄ p cest reference laddowson est except hors de cest grant. La 4 objection fuit, q̄ ceux pōls exceptis quæ in eisdem literis patentibus excipiuntur sēt exception hors de cest grant del Roy q̄ ore est, & donq̄s encounter l'express exception les general pōls ap̄s ne passera t̄; car constructiō doit est̄ fait sur tous les letters patents q̄ lun part poet effoier obe l'auter.

¶ A q̄ fuit r̄sde & resolve p le Court, q̄ q̄nt le (a) Ch̄e le Roy en gen̄al terms referre al un t̄ainty, t̄ conten cy express mention, cōe si le certainty ust est̄ expresse in m̄ le Ch̄e, cor̄nt q̄ le certainty a q̄ le reference est ne soit de record, mes gist in aver̄nt p mat̄ in pais ou in fact. Et p̄mer̄nt fuit cōsider q̄ fuit le ley in cest case debāt le stat̄ de pr̄rogativa Regis, & fuit agree q̄ debāt cē stat̄ si le Roy ust grāt un manoz a q̄m addowson fuit append̄t sans fait mention del addowson, ou sans dire (b) cum p̄t̄n, q̄ laddowson passet, & issint est le liure adjudge in (c) 43 E.3.22.a. q̄ ou le Countee Marshal fuit seisse del manoz de A. a q̄ un addowson fuit appendant, & done m̄ le manoz al Roy H. 3. a luy & a ses heirs, p̄ q̄ done le Roy grant a luy & ses heirs 50 marks per annum tanq̄ il luy infeoff de tant de t̄re auxy plein̄t & intier̄nt cōe il avoit le manoz de A. de son done, & puis le Roy H. don̄ mesm̄ le manoz de A. (a q̄ laddowson est append̄t) sans dire cum p̄t̄n, al dit Countee Marshal & ses heirs p̄ m̄ les 50 marks, & p̄ t̄ q̄ le manoz valust plus p̄ C s. rend C s. p annū, &c. & cor̄nt q̄ le Ch̄e le Roy H. 3. ne ple riens de p̄t̄n, ne de ses fees ne d'addowsons, un̄ fuit adjudḡ q̄ laddowson passera; & Mowbray Chief Justice rehearse cor̄nt le Roy H. 3. ad dōe le manoz sans dire (d) cum p̄t̄n, a q̄l tēps laddowson passera p̄ done le Roy cōe done daut̄ commō p̄son, & tout temps debant lestat̄ de pr̄rogativa Regis, le q̄l stat̄ fuit in temps del Roy ap̄el le Roy q̄ ore est, issint q̄ tout temps debāt laddowson passera p̄ t̄el done, p̄ q̄ judḡnt fuit done q̄ p le dit grant le Roy H. 3. del manoz, laddowson passet, & issint la est tenus q̄ debant le dit stat̄ p grant del Roy dun man̄ le tenure p escuage passet, & q̄ tout t̄ est p̄ve p le dit act̄ m̄, q̄l act̄ ad al̄ le cōmon ley, car les pōls de t̄ sont tunc hiis diebus rex reservat̄ sibi ead̄ feoda & advocatiō Eccl̄iæ, &c. & le liure dit issint est t̄ p̄ve p les pōls (his diebus) cōmence le pr̄ogative: Et

(a) 9 Co. 30. a. 46. b.
2 Rol. 185, 201.

(b) 39 E. 3. 21. b.
2 Rol. 60. Perk. §.
116. Co. Lit. 77. a.
307. a. Cr. El. 18.
Doff. & Stud. 35. a.
(c) Stamford Pr̄rog.
42. a. Br. patent 6.
1 Jones 23. Fitz.
grant 46. Br. Pr̄rog.
7.

(d) Co. Lit. 307. a.
77. a. Cr. El. 18.

- (a) 2 Rol. 60. Et obe t accord 44 E.3.20. q p feoffint del manoz p common ley sans dire (a) cum ptin' adbowson passera, & comit q le feoffint soit p pol laddowson passera : & obe t accord le liure in 39 E.3.21.b. q devant cest statute laddowson passera. Vide 19 E.2. Breve 844. 8 H.7.4.a.b. 18 E.3.15. Et est destt observe q lae de prerogativa Regis ne restrain forsq les dits 3 cases s. adbowsons, service de Chlrs, & indowint des semes ; Car Leet passera sans expresse mention ou pils equipollent, come est tenuis in 18 H.6.12. issint passet forst appendant al honoz, come est agree in (b) 26 Ass. pl. 60. in la ley de corrody appendant al patronage dun priory, come appiert in 26 Ass. pl. 63. & sic de similibus. Aury les pils de cest acc sont, Quando Dominus Rex dat vel concedit, & p t in case de (c) restitution adbowsons & service de Chl'r passet sans expresse mention de eur ou pils equipollent, come in livery al heirs. 2. In restitution del temporaltees al success. del Chelz, & semblables, 41 E.3.5.b. 27 Ass.48 Pl.Com, in Seignior Barkleys Case 251,252. 20 El.Dyer (d) 306.acc. Mes la Thorp Chief Justice dit in in le plea, q si un manoz a q un (e) adbowson soit appendant soit in le main le Roy p escheat ou p purchale, si le Roy a cest jour (puis le dit act de prerogativa Regis) done le manoz a un home aury entiresint coe un tiel teignoit devant q il vient in nostre main p boy descheat, ou come un tiel teignoit q nous enseoff, q laddowson passet sans dire in le Chce cum feodis & advocat', & le cause est p t q le ley intend in tiel case q le Roy est apprise de son droit : quod Curia concessit. Per q est deo observe ; 1. Que comit q le reference in le Chce le Roy soit al matter in fait ou in pais, q si le verity soit q laddowson soit appendant, q t passet, car in judgint del ley, t est equipollent al express mention del adbowson (come le statute parle) in le Chce : 2. Comit q le Roy grant le manoz soleint sans dire cum pertin' aury (f) intirement, &c. uncof laddowson passera ; & obe t accord 6 E.3.32.a. John Darcies Case, q si home ad manoz a q adbowson est appendant & franchise de ad forfeitures & aurs franchises deins le manoz, & puis le manoz debient in les mains le Roy p forfeiture de guerre, & puis le Roy done le manoz a tener obe les franchises q tout teps fuet regardt al dit coe un tiel tient, il a doit les franchises ; & la Sir Will Herle dit, q t serit un novel grât, car les franchises (qur gisent in point de Chce) fuet a venue a la Cozone. In q primerint est destt observe, que si
- (b) Br. incidents 11. Br. patent 35.
- (c) Fitz. livery 7. Co.Lit.77.a. Br.livery 45. Plow.252. a. F.N.B.33. N.O. Br. patent 75.
- (d) Dyer 360.pl.5. Co.Lit.77.a.
- (e) Hob. 323. Moor 872.
- (f) Hob.323.9 Co. 25. b. Dyer 44. pl. 32.

si home ad manoz deins q̄l manoz les owners de t̄ aboient franchises q̄ gisent in point de Ch̄e come forfeitures p̄ treason & aus̄s Royal franchises, & puis le manoz obe les franchises debient in les mains le Roy, & le Roy grant le manoz obe les forfeitures de treason & aus̄s franchises, q̄ suēt regard̄t ou p̄teinant al dit manoz come un tiel tient, q̄ tous les dits franchises pass̄t, & ceux p̄ols q̄r suēt regardant ou p̄teinant al dit manoz s̄ert p̄ise in cest sens̄e q̄ suēt loialment enjoy deins le dit manoz aux̄y entierēnt come un tiel aboiet eux, & un̄t solonḡ le strict propriety des p̄ols tiel franchises ne poient ess̄t p̄teinant al manoz. Mes tiel construction q̄ ferra le boyer intention del Roy expresse in s̄ Ch̄e a prendre effect est p̄ le honoz del Roy & estoit obe les rules del ley : & p̄ t̄ cest pol (p̄teinant) ferra in tiel case in grant le Roy p̄ise hors del proper signification. 2. Est deess̄t observe, q̄ in m̄ le case tiels franchises q̄r gisent in point de Ch̄e pass̄t come p̄ un nobel grant, a fortiori franchises append̄t ou p̄teinant al manoz, cōe abbowlons, fairs, markets, warrens, &c. (q̄r tous foits continue in esse & ne suēt extinct in le Cozone) pass̄t. Est dit in Plow. Com. in Fogassa's Case 12.b. si le Roy a t̄ jour grant ouster certain f̄res q̄r ont venus a les mains debant, & grant ouster al grantee tales libertates, privilegia, jurisdictiones, &c. q̄ cestuy aboit q̄ darreinist fuit seisse des f̄res ou le Roy ne scavoit le t̄ainty des liberties & priviledges, un̄t le grant est ass̄ets bone, & le patentee poet enquirer q̄r liberties & priviledges laut aboit debant, & intant q̄ cest incertainty poet ess̄t reduce a certainty p̄ inquiry ou aus̄t circumstance, le grant est bone. Vide le Case de Strata Marcella in le 9 part de mes Reports, f. 24.b. & vide 18 Eliz. Dyer f. (b) 350, 351. cite icy ap̄res.

¶ Quant al 2 objection fuit r̄fide & resolve, q̄ boyer est q̄ si le dit clause de (c) adeo plene & integre ust esse omise, &c. q̄ donq̄s l'abbowson nest passe p̄ le p̄mier clause ; mes p̄ l'addition del darrein clause tous les parts des letters patents p̄teignant effect a un m̄ temps l'abbowson pass̄t appendant : & cest parol (prend') ne restrain le passing del abbowson, mes describe quel manoz ceo est, & donques le addition de ceux parols (adeo plene & integre & in tam amplis modo & forma) expresse l'intention del Roy a passer t̄ aux̄y entierēment come le manoz vient a les mains, ou autrement les dits p̄ols adeo plene, &c. ne prend̄t leur droit & genuine effect : & ne unques fuit view in ascuns let̄s patents q̄ les dits

9 Co. 27. a. b.

8 Co. 77. a.

9 Co. 26. a.

(a) 9 Co. 24. b. 9 H.
6. 27. a. b. Fitz. gr̄ats
7. 40. Br. patent 4.
60. 5 E. 4. 8. b. 21 H.
6. 43. a. Br. Estate
44. Plow. 381. b.
Br. contract 13.

(b) Winch 11 Lit.
Rep. 62. 2 Rol.
185. 1 Jones 23.
Apres 56. b.
(c) Hob. 170.

2 Rol. 185. 1 Jones
23. Winch 11. Lit.
Rep. 62. Devant
65. a.

dits pōls de adeo plene & integre, &c. beigneē in le p̄mier clause del grant, mes in un nobel clause aparlyu, & donques in le darrein clause cest parol (prædict') est tousz foits adde ; & issint in verity le case fust in 18 Eliz. Dyer 350 & 351. Car appiert p̄ les letters patents del Roign Elizabeth in le dit case mention, q̄ le Rectory de Westbodwin a q̄ ladvowson del Escarage fust appendant vient al Roy p̄ attainder del C. p̄ felony, & fust conceal, le Roign Elizabeth grant totam illam Rectoriam de W. in Comitatu Wiltes. cum suis juribus, membris & pertin' universis, necnon omnia & singula mesuagia, &c. & hæreditam̄ta parcel̄ spectan̄ sive pertiñ dictæ Rectoriæ : Et ulterius, &c. Concessimus prædict' Rectoriam cum pertinentiis cæteraq; præmissa cum pertinentiis adeo plene & integre & in tam amplis modo & forma, quantitate & qualitate prout, &c. le felon avoit t̄ & coment t̄ avoyent a les mains, & adjudge que ladvowson passera sans expresse ou special mention ; aury, les parols fueront ex certa scientia & mero motu, & issint le Roign nient deceibe : que esteant un judgment in le point, consonant al resolutions in ancient jours, & concurrin̄ obe common experience & opinions de homes erudite, ceo ne fust digne de aucun question. Et sur t̄ fust conclude, q̄ si le Roy eyt le manor de D. in le County de Northumberland & aucun des rents & services extend in Cumberland, & le Roy grant le manor de D. in le County de Northumberland, Et omnia & singula mesuagia, &c. redditus, servitia, & hæreditamenta in dicto Comitatu Northumberland seu alibi parcel̄ prædicti Manerii, &c. Que les rents & services in le County de Cumberland passera. Car (prædict') nest forsque description del manor, & ceux parols aut alibi cobient daver aucun effect : Et p̄ t̄ instant que in tiel case tousz les parts del Chartre prendront effect a un temps, Ceux parols aut alibi serra in judgment del ley annex al p̄mier clause, & serra de tiel effect come si le Roy ad grant le manor de D. & tousz rents & services parcel de mesme le manor in le County de N. aut alibi, & t̄ estoit obe le rule de bone construction, cessascavoir, a fair tousz les parols des letters patents solongz le voier intention del Roy expresse in eux a prender effect. ¶ Quant al 3. objection, com̄t q̄ le p̄mier clause de grant refiert al demise in q̄ ladvowson est except, un̄ per le middle clause tousz tenements, &c. ptienant al dit manor sont grant, & le darrein clause grant le manor obe

obe les appartenances, &c. adeo plene, issint q̄ le r̄us al
2 objection satisfie E auxy. ¶ Quant al 4. fuit resolve
sans aucun difficulty q̄ l'exception terra extend solment al
leales recite, & nemy dēe aucun exception hors des Letters
Patents del s̄e-simple. Et accordant judgment fuit done
que adholon passera.

Trin. xi Regis Jac.

Le Case del Gardens del Eglise de S. Saviour in Southwark.

EN Information de intrusion preferre en le Court del Exchequer per Lattomy le Roy que est entre Hill. 5 Jac. Regis Rot. 121. vers Thomas Parby, John Parhal, Abraham Greene, & auters, pur intruding in le Rectory del Eglise Parochiel de S. Saviour en le County de Surry 9 Octob. anno 3 Regni Regis Jac. &c. Sur rien culs plead les Juroys donont especial Adit a cest effect. Que le Roign Eliz. fuit seisse del dit Rectory in son demesne cōe de fee come in dēt de son Cozone, & p les leits patents port date 22 Febr. anno Regni sui 27. demissa al Gardens del Eglise Parochiel de S. Saviour de Southwark (queux p tiel noīme fueront incorporate p Act de Parliament in anno 32 H. 8. & issint trobe) le dit Rectory del Feast de St. Michael adonq̄s darreine passe pur 21 ans, p force de que ils entrōnt & fueront ent possesse, & puis le dit Roign p les auters letters Patents port date 28 Novemb. anno Regni sui 33. recitant le dīt lease, p prædictas literas patentes port date 22 Februarii anno dictæ nup Reginz 27 confect: quas quidem literas patentes, & totum statum, titulum, interesse, terminum annorum adhuc futur de & in præmissis, dilecti subdit' nostri Thomas Norton, &c. Gardiani dictæ Ecclesiæ Parochialis modo habentes, & ad præsens possidentes nobis sursum reddiderunt & restituerunt canceland', quam quidem sursum redditionem acceptamus per præ-

præsentes; sciatis igitur quod nos ad humilem petitione gardinorū & parochianorū dictæ Eccleæ Scæ Salvatoris de Southwark, tam in consideratione sursum redditionis præd' quam in consideratione quod præd' nup. gardiani Eccleſiæ Parochiaæ præd' post datum dictarum noſtrarū literarū patentiu ſuperius mentionaæ, unā ſufficientem domum aptam & convenientem p. Schola Grāmatali ibid' tenend' infra Parochiam Scī Salvatoris præd' pro eruditione puerorum ejusdem Parochiæ ſumptibus eorū & expenſis erexerunt & edificaverunt, necnon p. ſine 20 l. legalis monetæ Angliæ ad receptū Scaccii noſtri, ad uſum noſtrum p. præſatos modo gardianos ſoluē demise le dit Rectoy aux dits Thomas Norton, &c. oze gardens del dit Eglise, del feaſt del Annuntiation de noſtre Dame adonques darrein paſſe p. le term de 50 ans, & trobe ouſter q. les dits gardens al temps del conſecration del dit leas p. 50 ans ſurrender & yield up les dits letters patents de anno 27 Eliz. deſtre cancell', & adonques pala al officers del Court le Chancery les fees due pur cancellation de ceo & feaſant del vacat del Inrolment de ceo, & que ſils adonques fueront poſſeſſe del reſidue del dit terme de 21 ans, mes nul vacat fuit fait del dit Inrolment des dits letters patents, & q. les dits deſend & auters eſſeant gardens ont enter in le dit rectoy p. force de ceſt darrein leas p. d' tempore quo, & ſi lentre les dits deſendants cōe gardens fueſt cōgeable in ley ou nemy, fuit le qſſion. Et cē caſe fuit ſobent ſoits argue al barre in divers ſeſſal termes, & oze in ceſt tme fuit argue p. Sir E. Bromley, Sir James Altham, & Sir George Snigge, Barons del Excheqr, & Sir Laurence Tanfield Chief Baron. Et in cē caſe 3 points fueſt reſolve. ¶ Primerint, q. ne beſoigne al t. actuel ſurrender in cē caſe, p. t. q. ceux poſs modo habentes & ad pſens poſſident, &c. proba q. al temps del cōſecration des dits letters patents les gardens del dit Pariſh avoient le dit terme p. ans in eux, & p. t. appliert expreſſeint, q. l'entention del Roy ne fuit que eux ſerf aſcun (a) ſurrender devant le patent, mes q. p. l'acceptans des letters patents ſils apant donqs le tme in eux leur eſſate p. ans ſerf ſurrender: Et ou les poſs ſont, ſurſum reddiderunt & reſtitueſ, &c. in le p. terperſet temps, eſt deſſe obſerbe q. les poſs ſont modo habentes & ad pſens poſſidentes ſurſum reddiderunt & reſtitueſ, &c. q. doit eſt in conſtruction del ley; car in judgnt del ley le ſurrender (b) p. cede le nobel leaſe, & in mults caſes le p. terperſet temps eſt piſe p. le preſent temps, come dedimus &

(a) Hob. 204.
2 Rol. Rep. 406.
1 Jones 26.

(b) 1 Jones 26.

(a) 11 Co. 79. a. Br. trespas 288. Br. corporation 47. 50. 51. 52. 96. 4 H. 7. 6. b. 16 H. 7. 2. b. 7 H. 7. 16. b. 26 H. 8. 8. b. Br. bailly 1. 12 H. 7. 26. b.

(b) Co. Lit. 338. a. 6 Co. 64. a. 69. b. 8 Co. 152. a. 2 Rol. Rep. 315. Hutt. 18. 2 Sid. 59.

(c) Co. Lit. 218. b. 338. a. 2 Rol. 496. 5 Co. 11. b. 54. b. Cr. El. 264. 522. 605. 873. 874. De- vant 52. b. 53. a. Poph. 8. 9. 2 Leon. 188. 3 Leon. 247. 4 Leon. 30. Dall. 74. Moor 196. 358. 636. 637. 2 Ander. 52. 192. Dyer 46. pl. 9. 112. pl. 49. 140. pl. 43. 177. pl. 35. 200. pl. 62. 280. pl. 13. 349. pl. 15. Perk. § 617. 14 H. 8. 15. a. Br. lease 14. 2 Rol. Rep. 171. 406. Lane 7. Lit. Rep. 273. 282. 6 Co. 69. b. 37 H. 8. 18. a. Plow. 107. b. 194. b. Br. surrender 14. 35. 2 Co. 17. b. 7 Co. 38. a. Raym. 148. O. Benl. 57. Kelw. 70. b. 21 H. 7. 5. a. b. Br. estoppel 210. 2 Sid. 138.

(d) 11 Co. 11. a. 8 Co. 56. a. 167. a. 77. a. Kelw. 175. a. 198. a. 3 Leon. 243. 2 Sid. 141. 2 Rol. 200. Plow. 32. a. 126. a. 143. b. Hard. 500. Fitz. grant 29. Br. exemption 9. 1 Co. 49. a. 2 R. 3. 4. a. b.

(e) 2 Rol. 200. 6 Co. 6. a. 3 Bull. 6. 2 Inst. 497.

(f) 2 Rol. 199. (g) 2 Rol. 206. (h) Hob. 222. Plow. 455. a. 5 Co. 94. a.

concessimus pro damus & concedimus, &c. a ql surrender in ley le Roy expressement agreea p ceur pöls, quam quidem sur- sum redditionem acceptamus : Et p t le Roy nest deceive, ne prejudice in estate, interesse, value ou remedy ; & coist q les lesses fueront corporation aggregate de plusors, & ne poient fait expresse surrender (a) sans fait in escript desouth leur seal, uncoze ils poient per act in ley surrender leur terme sans aucun escript, car (b) Fortior & potentior est dispo- sitio legis quam hominis, come in 37 H. 6. 16. si home ad in- teresse termini pro termino annorum a commencer a Mich. il ne poet expressement surrender cest interest; mes si pnt nobel leas p ans, cest acceptance est (c) surrender in ley del pnt leas : Ilint si prior obe le consent de covent fait leas pur ans rendant rent, si le prior per fait expressement release le rent & mozt, le successoz recovers les arretages, mes si le prior ouste le lessie & mozt, cest discharge in ley dischargera le rent que incurte durant le ouster le successoz, come ap- piert in 34 H. 6. 21.

Et cest constructio, & nul auter, estoit obe les pöls & in- tentio des dits lettrs patents. Mes si (d) deux constructio- poient est fait del grant le Roy, donqs le rule est, qnt t poiet receiver leurs constructions, & p force dun constructio le grant poet est solong le rule del ley adjudge bone, & p auter q t terra p la ley pyle void, donqs p le honoz del Roy & le benefit del subject tiel construction terra fait que le Char- tre le Roy pendroit effect, car ne fuit intent le Roy a faire void grant : & obe t accord Sir (e) John Molins Case in le 6 part de mes Reports. ¶ 2. Fuit resolve, q le (f) delibery fait p les gardens des dits letters patents in le Chancery destt cancel, &c. (q fuit pt del consideration) p leur mains sans escript fuit sufficient & tant come ils doient fait, & ap- pent al senioz Chancelloz ou les officers daver cancel eur ; & chescun doit fait t q a luy appent. ¶ 3. Fuit resolve (g) q ne besoigne a trover le payment del dit 201. q fuit un des (h) considerations del lease, car ceo nest que summe dar- gent in le personalty, & affirme p le Roy destt pay & satisfie in temps devant le patent, & ilint consideration personal executed : & obe ceo expressement accord 37 H. 8. tit. Pa- tents B. 4.

Nota Leteur, jeo ay vüw divers auters letters patents

faits sur autiel consideration, & ayant tiels parols modo
habens & possedens, & in nul de eux aucun actuel surrender
fuit unques fait. Vide (a) Barwicks Cafe in le 5 part de mes
Reports f. 93, 94. Vide in le Cafe de Altonwood in le 1 part
de mes Reports, inter quæ & le cafe al barre le Diverſity ap-
piert.

(a) 5 Co. 93. b. 1 Co.
43. b. Moor 393.
2 Rol. Rep. 273.
Davis 40. Hob. 204.
3 Keb. 414. Stiles
189. Hardr. 499.
Lane 11.

Mich. x Regis Jac.

Le Case del Marshalsea.

- 1 Brownlow 199.
2 Brownlow 124.
3 Inst. 462, 548.
4 Inst. 130.
5 Bulst. 207.

RIch. Hall port Action de Tris d'assault, battery, wounding & faux imprisonment des William Stanley, William Richardson & Roger Cante, q'ils 1 Jani anno 7 Jac. Reg. assault, naufrage, wound & imprisonment, & in prison detain p le space de 3 moies, &c. Les Def. q'nt al tout le tris forsq' assault & imprisonment & le detainer de luy in prison plead non culp & q'nt al dit assault & imprisonment, &c. le dit William Stanley & William Richardson disoient, quod curia dom' regis vocat' curia marischalcie hospitii dñi regis, est antiqua curia ipsius dñi regis & pgenitoru suoru regu Angliæ, & quod eadē curia tenetur, & à tempore cujus cōtrar' memoria hominū non existit, tenebatur, & teneri consuevit infra virgā, &c. corā seneschallo curiæ marischalcie & marischallo hospitii dñi regis p tempore existen', & q' in le court de temps dont, &c. aboit jurisdiction a tener pleas de tris, & tris sur le case infra hospitii præd' & infra virgā ejusdē hospitii fact', & p tout le dit tēps deins la dit court la suef tam quid' marischall' marischalc' hospitii præd' quā quid' officarii de le bastō infra virgā hospitii dicti dñi regis, qui quidē marischall' marischalcie hospitii præd' & officiar' de le bastō p tempore existen' sunt & p totū idē tempus fuerunt officarii, & ministri cur' præd' & quod omnia brevia & præcepta ejusdē cur' dirigend' sunt, & p totū tēpus præd' direct' & dirigi usitat' fuerunt, eidē marischallo marischalcie, qd' ipse idē marischallus marischalcie p se, & præd' officarii de le bastō per ejus mandatū ore tenus fact'

fact' habent, & a toto tempore supradict' habuerunt & habere
 cōsueverunt executionē retorn' & omniū & omnimodorū
 breuiū, præcept' & warrant quorumcunq; a curia præd' emanā
 mariscallo mariscalciæ præd' direct' ; & iidē Willus, Willus
 & Rogerus ulterius dicūt, quod in curia præd' habetur & toto
 tēpore supradict' habebatur talis consuetudo, viz. quod si ali-
 qua psona existē def. in aliquo placito transg' in eadē curia
 penden' & in custodia mariscal' i mar' hospitii existen' fuit tra-
 dit' in ball', & prescribe a laiser le Def. al baillie ; & q' le dit
 William Richardson devant le trespas & uncore est mares-
 chal del marshalsea del household, & le dit William Stanley
 officer de le baston, & q' le dit Rog Cante devant le trespas,
 cestascavoir, 21 Jan 5 Reg. Jac in le dit court del marshalsea
 del household devant Thomas Warre At donques steward
 del dit Court, & Thomas Tavafor Chl're adonq's marshal
 del dit household, al Southwark deins le County de Surk
 deins le vierge, &c. & la exhibit un bill enq's un Tho. Own-
 stead adonq's in le custody del marshal del marshalsea del dit
 household de plea de trfis sur s case, & count q' ou le dit Tho.
 fuit indet al dit Rog in 80 l. p d'ys sums des deniers p le
 dit Tho. al dit Rog due, & issint esseant indet le dit Tho.
 1 Jan an 5 Jac Reg. al Inington deins le vierge assume a paier
 al dit Rog les d'ys 80 l. sur request, le q' il nad fait, &c. sur q'
 le dit Tho. fuit laise al baillie, & le dit Rich. Hall & un Rich.
 Petty deveign s baillie : a q' declaraf le dit Tho. Ownstead
 plead nō Assumpit, &c. q' il sue fuit try p le pl' & assesse dama-
 ges & costs, sur q' le pl' in m le court ad Judgint, & le pl' sur
 cest Judgint sue un pcept in le nature dun Cap. vers le dit
 Tho. Ownstead al marshal del marshalsea del household direct,
 q' retorn Non est inventus, sur q' le adonq's pl' sue un pre-
 cept in le nature dun Cap. a pnder le corps del dit Tho. Own-
 stead, ou del Rich. Hall, & Rich. Petty solong le custō del dit
 court, ad satisfaciend', &c. direct al marshal del marshalsea del
 dit household, p force de q' le dit marshal del marshalsea ore te-
 nus command le dit William Stanley a execute le dit b're, p
 force de q' il arrest infra virgā, &c. le corps del dit Rich. Hall,
 & delib' luy al dit William Richardson marshal, &c. in exe-
 cution, &c. q' luy detein in prison del marshalsea al South-
 wark infra virgam in execution, &c. Le pl' reply & dit,
 quod nec præd' Rogerus Cante in placito prædicto querens
 nec præd' Thomas Ownstead in placito prædicto def. tempore
 exhibitionis billæ præd', fuit servus seu servi dicti dñi regis
 seu

Le Case del Marshalsea. Part X.

6 Co. 20. b.

seu de hospitio suo præd' existen', &c. Sur q le Def. demure
in ley. Et test case fuit sobent fois argue al bar, & 2 points
fueront move : 1. Si action sur le case sur assumpt' p' paymt
dun det esteant fait deins le vierge soit deins le jurisdiction
del court del marshalsea : 2. Admittant que t ne soit, don-
ques si les Defendants ayant le garrant del dit court serra
puny per faux imprisonment ou nemp. Et mult fuit dit per
eur que fueront accounsel ohe le court del marshalsea pur le
antiquity, honoz & jurisdiction del court del marshalsea ; p le
antiquity, q t est cy ancient come aucun court le Roy, come
appiert in 4 H. 6. 8. b. & diversity des courts tit. Marshalsea ;
pur le honoz, que Fleta lib. 2. cap. 2. procheine apres le haut
court de parlisant adde, Habet & curiam suam coram senes-
challo suo in aula sua, &c. & Britton c. 1. q est in son liure, in
le pson le Roy, comence ohe le court del marshalsea devant
aucun auter, in ceur parols, Et q le marshal de nostre ho-
stie teigne nostre lieu deins le vierge, &c. & voilomus que le
Counte de Ross. per luy ou per auter chivalier, soit enten-
dant a nous & a nostre seneschal, a fait nous command-
ments & les attachments & les executions de nous judg-
ments & de nostre seneschal per la vierge de nostre hostie,
in que fuit auxy oblerbe p le honoz del court, & les Judges
teignent le lieu del Roy, & que home de tuel dignite come le
Counte de Ross. est attendant al dit court ; & ils disoient
ouster, que cest court fuit de cy haut jurisdiction que devant
lessatute de 5 E. 3. c. 2. & 10 E. 3. c. 2, que nul Juste Derror
gist d'aucun jugement done in t mes in parlisant, & per si les
statutes lour errors serra examine & represse in Bank le Roy ;
Et come appiert per Fleta, cest court d'ancien temps pur le
greinder honoz de t fuit tenu in aula regis deins le hall del
honorable household le Roy.

La 1 point.

1 Bullstr. 208, 209.

210, 211, 212. 6 Co.

2. b. 21. a. 3 Keb.

335. Cr. El. 502.

2 Inst. 547, 548.

F.N.B. 241. b.

6 Co. 20. b. 21. a.

F.N.B. 241. b.

Et qnt al jurisdiction, ils disoient que devant lessatute de
Articuli super cartas, cap. 3. que le court del marshalsea ont
jurisdiction deins le vierge des pleas del corone ou criminal
causes & de tous common pleas, real, personal & mixt, &
que devant le dit statute la seneschal & marshal del hostie
le Roy usont a tener tous les pleas avantdits deins le
vierge, comt que nul des parties fuet del hostie le Roy, &
ore le dit act ad restrain eur a 3 actions solement, cessave-
voir, contracts, covenants & trespas, & ceo in 3 distint
manners, cessavevoir, in contracts & covenants quant am-
bideur sont del hostie, 2 in trespas quant lun part ou l'auter
soit

soit del hoſſie, 3. dauters trēs faits deins le vierge quant nul des parties soient del hoſſie; & E estoit obe les parols del dit act, cessascavoit lousq tantſoleint del trespas del hoſſie, & dauts trespasſes faits deins le vierge, & les contracts & cobenants que aucun del hoſſie le Roy aver fait al auter de meſme le hoſſie, ſiint que p expres parols ils ont power non ſoleint del trespas del hoſſie, mes aury dauts trespasſes deins le vierge; & q les darrein parols que aucun del hoſſie, &c. aver fait al auter de meſme le hoſſie, avera relation ſoleint aux contracts & cobenants, & nemy al clause concernant trespas, car donques ceux parols (& des auts trēs faits deins le vierge) ſont void, car il parla primes des trespasſes del hoſſie, & donqs si le darrein clause avera relation al clause del trespas, meſme le clause & des auters trēs faits deins le vierge ſer̄ void, & glossa viperina est quæ corrodit viscera textus. Et ils reſſont ſortment ſur un act de parlaſant faits deins 2 ans aps le dit act de 28 E. 1. cessascavoit, in (a) 30 E. 1. nient in mint, mes remain in le treaſory, (a) 6 Co. 21. 2. que est bone exposition del dit former act; per que est enact que lou debat le ſeneſchal & marſhal, le court eſſeant pluſors foies pres le City de Londres, alguns inqueſts soient pſe de trēs & auters choses faits deins le dit City, enter alguns de meſme in City tantſoleint, & inter eux & foreiners jointſint, ou inter foreiners, & de ſur trespasſes, & auters choses al ſeneſchal & marſhal per reaſon del vierge le conuſans appent, que tous tiels inqueſts ſer̄ pſe deins le City de Londres, & nemy ailleurs; ſur que ſuit inferre, que de tous trespasſes faits deins le vierge inter quecunq perſons, le conuſans appent al ſeward & marſhal del hoſſie, q est exposition per le haut court de parlaſant, & (b) contem-
 poranda expositio est fortissima in lege, ſiint q cibien devant leſtatute de 28 E. 1. come per les parols de meſme leſtatute, & per laq de 30 E. 1. le ſeneſchal & marſhal del hoſſie ont jurisdiction a determiner tous pſens de trespasſe inter quecunq perſons. Et ils citont aury leſtatutes de 5 E. 3. cap. 2. & 10 E. 3. cap. 3. per queur appiert, que le court nad jurisdiction ſoleint de trespasſe del hoſſie, mes aury dauters trespasſes. Et ſis teignent que ceſt parol (trespasſe) ſer̄ extend beneficialment pur le jurisdiction del dit court, pur ceo que leur ancient jurisdiction ſuit tant reſtrain per le dit act, & pur E ſemble a eux que tous actions lentre de queur est in placito transgressionis, &c. ſer̄ deins ceſt pol trespas, & pur
 ceo

(b) Cart. 20, 135.
 2 Inst. 11. 4 Inst.
 138.

ceo pleas de Ejectione firmæ, Trespas quare clausum fregit, des biens imports, assault, battery, wounding, trespas sur le case, sur trober, & assumpsit, & aus trespasses sur le case serf prise deins cest parol trespas, & le jurisdiction de t' appent al seneschal & marshal del hofle, coist q' nul des parties soit del hofle le Roy. Et ils concludont, que infinite Presidents poient estt monstre tout temps puis le seasans del dit act de 28 E. 1. q' ils ont tenus pleas de trespas, cibien trespas sur le case, come auter deins le vierge, coist que nul des parties suet de hofle le Roy. (a) Optimus legum interpretis consuetudo.

(a) 2 Co. 81. a.
2 Inst. 18.

Le 2 point.
Carter 19.

Et quant al auter point, admittant q' le court n'ad jurisdiction del cause, uncoze le proceeding in ceo (esseant court de record) n'est pas void mes voidable per Writ de Error. Aury le marshal del marshalsea de hofle, & le officer de le baston, sont officers & ministers del court, & serf encounter reason a punier euz p' executing del pcept & gart del court, q'it ils usont refuse le court voille ad' puny euz p' lour disobedience, & p' t' le rule est, Quicunq; jussu judicis aliquod fecerit, non videtur dolo malo fecisse, quia parere necesse est: & in 26 E. 3. 70. b. la est prise pur un maxime, q' le chose q' un officer fait p' garrant ou pcept dun court ne port estt dit encounter le peace: & Doct. & Stud. f. 150. a. les officers le Roy sont tenus executer les bres le Roy a lour persil: & ils citont & forstnt urgeont le liure in 7 E. 3. f. 23. b. & 24. a. ou Alice port un action de Trespas vers un William, de faux imprisonnt, Le def. dit que devant le imprisonnement command fust in le marshalsea, que si nul feme fust le hofle nostre seignior le Roy q' el serf prise & imprison, & cesty Alice fust le hofle le Roy, p' q' John Cladon adonques marshal command cesty William q' est gaoler de luy prender, p' q' il luy p'ist p' son commandnt & per tiel cause, & nentendoms q' il poist tozt in nostre person assigner, & la le rule de liure est, q' William le def. fist nul tozt tout rescensit il luy, le quel le cause fust allowable ou non, car cobient q' il soit obellant a son sobereign, mes tout temps le gaoler doit recevoir quelque soit maund a luy p' son sobereign soit le cause de la prise allowable ou non, & la issue fust prise le quel le Def. avost le p' del delibery del Marshal. Muint in le case al barre les officers del court ne sont a disputer lour authority, mes doient estre obellant & execute les garrants & pceptis del Judges del court: & sur cest grounds les liures sont

Devant 76.

sont in 8 E.3.38. 17 E.3.66. 19 E.3. Quare non admisit 7. Plow. Com. Morgans Case 12, 13. 7 H.4.27. 11 H.4.35. 9 H.6.20. 2 R.3.10. 21 H.7.22. 14 H.8.16. Vide temps E. 1. Aff.402. 32 E.1. ibid. 378. 17 E.2. Aff. 373. 19 E. 3. Scire facias 12. 31 Aff.19. 10 E.3.47. 14 H.4.24. 21 E.4.66. 21 H.6.36. 21 H.6. Trns 50.

Mes sur soleint arguist al bench fuit unestit resolve q Judgment sert done vers les Defendants.

¶ Et qnt al pmi point t fuit divide in 5 parts. 1. Quel ^{Le resolution al 2 point.} jurisdiction le Court del Marshalsea avoit al Comon Ley devant le dit act de Artic super cart' anno 28 E.1. & in ceo lertent de leur jurisdiction fuit consider, cestascavoir, 1. In qur actions le Court avoit jurisdiction, 2. A quel lieu leur jurisdiction fuit circumscribe, & a qur persons leur jurisdiction extend.

2. Les raisons p quoy le Common Ley done a eux come Judges del Court del Marshalsea tiel particular & limited jurisdiction.

3. Consideration fuit eise del dit act de Artic super cart' & in t 3 points fueront discute, 1. Pur quoy cest act fuit appel Artic super cart. 2. Quel manner del act t fuit, ou introductory dun nobel Ley, ou declaratory del ancient, 3. Les several parts del act fuet consider.

4. Les authorities del Ley in tous successions des ages puis le dit act.

5. Le nature de cest action sur le case sur assumptit.

Quant al pmi est ascavoir, q le seneschal & mareschal del Possel le Roy avoient devant le dit act 2 distinct authorities, lun, ils ont tiel genal authority in effect come Justices in Eire avoient, car ils fuet les vicegerents in part del Chief Justice Dengleterre deins le vierge. Auxy le seneschal & marshal ont auter authority, cestascavoir, a tener le Court del Marshalsea, le title de quel fuit Placita coronæ Aula hospitii domini regis coram seneschall' & marischallo. ^{6 Co. 21. a. Apres 73. a. 2 Inst. 549.} Per force de leur pmiere authority, ils poient tener tous maners des pleas del corone, & de common pleas, auxibien real & mixt come personal, & t appiert per divers ancient pcepts des summons q ils usont a direxer al vif, &c. a faire venir devant eux tous pleas, &c. le form de ql fuit tiel; Robertus filius Johannis miles, seneschallus hospitii dñi regis vicecom', S. salutem. Mandamus quod venire fac' coram nobis tali die ubicunq; dñus rex tunc fuerit in balliva tua omnes Assisas novæ disceissinæ,

disseisina, mortis antecessoris, ultimæ p̄sentat', magnas Affisas, & omnes juratas, inquisitiones & attinctas, & omnia placit. de dote. Unde mulieres nihil hnt' & quæ summ sunt corā Just. Regis ad primas Affisas cum in ptes illas venerint, immo & omnes Affisas illas & placita illa, juratas, inquisitiones & attinctas illas q̄ corā Justic' Regis ad Affisas capiendas in balliva vestra assignatis fuerint attaminatæ & non finitæ. Et p̄tibus diē illū p̄figatis quod tunc sint ibi Affi. illas & placita illa juratas & inquisitiones & attinctas illas in eodē statu quo remanserunt corā p̄fat' Justic' p̄secut' si voluerint. Venire etiā fac' corā nobis dictis die & loco omnes prisiones & manucaptos de balliva vestra, & omnia attachiamta quæ p̄tinent ad gaolā deliberandam. Fac' etiam p̄clamari & sciri p̄ totā ballivā vestram quod omnes liberi & quatuor homines & p̄positus de villatis quar' interfuerit, quod tunc sint ad deliberationem p̄æd'. Et habeat' ibi Recognitores, nomina Pleg', Summ. & hoc breve.

Et q̄ ils ont tiel general authority appert in Fleta, q̄ escrip devant le dit act de 28 E. 1. lib. 2. cap. 2. Habet & Rex curiā suā corā senescallo suo in aula sua, qui jam tenet locū capitalis Justitiar' Regis (de quo fit mentio in communi banco de hoie rept') qui p̄prias causas regis terminari consuevit & falsum judiciū ad veritatē revocare, & conquerentibus absq; breve justiciā exhibere; cujus vices gerit in pte idē seneschallus hospitii regis, cujus interest de omnibus actionibus cōtra pacē infra metas hospitii, &c. recent' illatis & sine bfi, &c. auditis queremoniis injuriarū in aula regis audire & terminare assumpt' sibi camerar' hostiar', vel mariscallo aulae, militibus, vel aliquibus eorū, si omnes interesse non possunt. Et cap. 3. Habet seneschallus ex virtute officii sui p̄æd' potestatē p̄cedendi ad utlagationes & bella injungendi, & omnia & singula faciend' quæ ad Justiciarios itinerantes, put superius dictum est, p̄tinent faciend', hoc tantum excepto quod de libero tenemto intrromittere non debet sine brevi. Et la appert q̄ le seneschal, &c. teignent cest court in aula reg. & q̄l authority Justices in Eire avoient a tener tous pleas del corone & tous common pleas, real, mixt & p̄sonel, poies veier in le Mirror des Justices cap. 2. §. 3. ou est dit, Les roys sont droit a tous per leur Justices Commissaries errants assigns a tous pleas. Vide lestatute de W. 2. cap. 11. Bracton lib. 3. cap. 7. f. 105. &c. f. 115. b. Britton cap. 1. 6 E. 2. Affise B. 496. 4 E. 3. 41. 42. 6 E. 3. 55. 27 Aff. p. 1. 15 H. 7. 5. b. Et est dest' observe, q̄ cest q̄ est p̄soner al bāk le roy est in custodia mareschalli mareschalcie domini

mini regis, & cesty q̄ est prisonier al marshalsea del hostle est in custodia mareschalli marischalcie hospitii dñi regis. Et p̄ appiert aury, q̄ le seneschal, &c. vices gerebat capitalis iusticiarii : & obe t̄ accord Britton c.1. q̄ escry in 5 E. 1. q̄ fuit debant lestatute de Artic' super cartas, Et q̄ le marhal de nostre hostle teigne nostre lieū deins le vierge de nostre hostle, & q̄ son office se extend a oyer & terminer les presentm̄ts & chapters de nostre cozone q̄nt nous veiomous q̄ bone fert. Et nota q̄ ceux chapters fueront ceux des q̄ur Justices in Cite chargeont les Juries de enquirer come appiert in Bracton lib.3. tract.2. cap.1. f.116. Et obe t̄ accord le Mirror des Justices, q̄ liure fuit aury escry devant le dit act de 28 E.1. Al offices des Chief Justices appent les toxioulnes des judgments & errors, &c. & cy appent a lour office doier & terminer tous plaints faits des psonel toxis a 12 lieuks dengour le Roy, & les gaols deliberies del p̄isoñs deliberable, & a determiner q̄nt q̄ est determine p̄ Justices errants. Et Bracton aury, q̄ aury escry devant le dit act, libro 3. de Actionibus c.7. f.105. Habet rex plures curias in quibus diversæ actiones terminantur, & illarum cū habet unam propriam sicut aulam regiam, & Justiciā capitales qui pprias causas regis terminant, & aliorum omnium, per querelam, vel privilegium, vel per libertatem.

Quant al aūt authority, le (a) seneschal & marhal sont Judges del marshalsea del hostle le Roy; & cest court al common ley ad pticular & limited jurisdiction : 1. In respect del causes, car ils come Judges de cest court navoient jurisdiction forsq̄ de pleas del cozone, & de (b) 3 particular cōmon pleas, cestascavoir, pleas de det, covenant, & tr̄s vi & armis, come de battery, biens imports, mes nemy de Tr̄s quare clausum fregit, Ejectione firmæ, Action sur le case, Detinue, ne aucun aūt psonel action, ne dascun real ou mixt action : 2. In respect des p̄sons, car in (c) det & covenant ambideur les p̄sons covient est̄ del hostle le Roy, mes in tr̄s suffist si lun des parties soiet del hostle le Roy, & ceo aury appiert per Fleta lib.2. c.3. Si autem de aliquo familiari regis (i. aucun del hostle le Roy) fiat querimonia, primo summoneatur, 2. attachietur, 3. capiatur, &c. p̄ q̄ appiert, q̄ les tr̄s covient est̄ vi & armis, & nemy sur le case, ou autermt̄ (d) Cap. ne gist al common ley; & aury q̄ suffist si lun des parties soit del hostle Roy. Des intant q̄ le seneschal & marhal avoient al common ley ceur authorities, lun geñal & laut particular, & ambideur

(a) 6 Co. 12. a.
F.N.B.241. b.19 E.
4.8. b.20 E.4.16. b.
Cr.Jac.314.1 Bull.
210.

(b) 2 Inst. 548.
Apres 74. b.

(c) 6 Co. 20. b.

(d) 3 Co. 12. a.

(a) 4 Co. 47. a.
Après 74. a. F.N.B.
241. b.
(b) 1 Bullf. 209.

deux courts adonq's tenus in Aula Regis, & q' ils ont le general authority forsq' a volunt, & ont fixed estate p' leur vies in laut, ils trahont a court del marshallsea p' colour del dit general authority plusors causes q' p' la ley appent al jurisdiction del dit court. 3. In respect del lieu a q' leur jurisdiction fuit subscribe; & t' appiert p' Fleta lib. 2. c. 2. Infra metas hospitii continentis (a) 12 leucas in circuitu, & le Mirror des Justices ubi supra. Et t' fuit le ley devant lessaf de (b) 13 R. 2. c. 3. Des t' limit le 12 leuks deff' account inter le tonnel le Roy. Et le seneschal & marshal esteant issint restrain, ils invent divers means & debiles de amplifier leur jurisdiction, & a encrocher sur le common ley; & p' t' si in le obligation, ou covenant, &c. mention fuit fait de distress del seneschal ou marshal del hostile le Roy ou lun de eux, ils voient tener plea de t' comit q' obligation ou covenant fuit fait hors del vierge. Et auxy ils usont a prendre conusans des det's & aus' choses, ou les gens ne fuet del hostile, & t' appiert per Fleta lib. 2. c. 3. Tunc demum de obligationibus & contractibus, in quibus debitores ad districtionē seneschalli & mareschalli dñi regis sponte se obligaver' : Et paulo post, Et nota quod in obligatione omni in qua fit mentio de districtione seneschal & mareschalli hospitii regis vel eorū alius tantū, audif sunt ptes & loquela terminata sine bñi ubicunq; se cōtraxerint infra virgatā vel extra corā sēñ nisi loquela libes tangat tēñ ejus vel p-tinent, Nec obstat petēti ex de contractu facto extra virgatā, ut inter placita Perri de Chamnet anno regni reg. E. 18. inter Henr de Wotton petentē, & Ranulfum Foleschanks obligat prafat H. in necessariis p' victu & vestitu & hujusmodi ad valenc 20 l. p' annū suo ppetuo inveniēd' p' quad' terra in D. & quadā balliva in S. & unde idē R. obligavit se in Lond' districtioni sēñ & mar regis anno 15 Rege tunc existente in Vascoñ. Cui executionē de novo infra virgatā non allocata, petiit juditiū si de libero tēñ vel ejus ptiū debuit sine bñi regis respondere cum idē H. petiit certū redditū ad terminū vitæ suæ : Et quia voluit sic obligari nec volenti & scienti fit injuria cōsiderat fuit p' ptes. Justic' qui aderant, ex quo necessaria illa pveniebant tanquā de camera & non de loco certo de quo potuit visus fieri, quod executio prād' locū non haberet, & quod aliud diceret & responderet, vel p' indefenso & convicto haberet. Autē inventionē ad ampliandam jurisdictionem suam fuit, que comit que nul des parties fuit del hostile le Roy, uncore ils voillēt nosmet eux in le count & plea del hostile le Roy, & issint come

come a eux semble, a effopper le partie a counterdire ceo. Mes a concluder cest point appiert a toy bone Lecteur, que a scaber que le ley fust devant l'act de 28 E. 1. come necessary, l'authorities des dits ancient livres del (a) Mirror de Justices (a) 8 Co. 35. a. de Bracton, Britton & Fleta sont a discuter cest point ; & comment que un peradventure poet scaber le ley sur les ancient statutes, uncoze ils ne unques scabent le voier reason del interpretation del eul, sil ne scavoit que fust le ley devant le feasant del eul, & pur ceo voier est quod multa ignoramus quæ nobis non laterent si veterū lectio fuit nobis familiaris.

Quant al 2 point, l'ancien stile del court del Marshalsea fust (b) Placiū Coronæ aulæ hospitii dñi regis tēta corā, &c. per qur pōis aulæ hospitii est pve, q al meins lun ou l'auter partie doet estre del hostle le roy, car comt poient les parols estre aulæ hospitii dñi regis qnt nul des pties est del hostle le roy? Et fust observe q ceux q sont del hostle le roy sont appel Aulici : & t est le reason q ne besoigne insuits la debāt le seneschal & marshal (c) d'alleger q le pl ou def. fust del hostle le roy, car le stile del dit court come apres appiert p mults authorities t implie. Le 2 reason est pur t q les proceedings in m le court est per bill in respect del pvisledge des parties & nemy p original, & le court del bank le roy ne poit tener aucun common plea per bill sans pvisledge del court. Le 3 reason q le service & attendance des servants le roy fueront cy requisite & necessarie al roy q les pleas in le dit court serf puis tost discontinue per son remove hors del bierge q il poia le attendance de ses service, & sil poient tener pleas inter mere foreiners, quel reason serf q les pleas serra discontinue per le remove del roy? & pur quoy serra les Judges del hostle le roy a decider causes qnt nul des parties est del hostle le roy? (d) Jurisdictio est potestas de publico introducta cum necessitate iurisdicendi ; Et t accord bien qnt les pties soient del hostle pur le necessitie del service le roy, mes nemy qnt nul des parties soit de m hostle. In Mich 42 & 43 Eliz. in bank le roy (e) Hall port bfe ds Error vers Jones dñ judge sit done in court de ppowders del market in le Citie de Glouc, p Jones Register al Evesq de Glouc p t q Hall publishe slanderous parols de luy s. That Master Jones and his Clerks have by colour of his Office extorted and gotten 300 l. per Annum by unlawful means, for many years together above their ordinary Fees for proving of Testaments and granting of Administrations, & le judgement fust rebers p 2 errors. 1. p t q les dits pōis ne conenant asc matf (f) touchant le market, & pur t le Court nad aucun iurisdiction de ceo ;

J

mes

(a) 8 Co. 35. a. Plow. 357. a.

(b) 6 Co. 21. a. Devant 71. a Doct. pla. 87. 2 Inst. 549.

(c) Doct. pl. 87. 247

(d) 1 Bullf. 210.

(e) Moor 623, 624. 4 Inst. 272. Cro. El. 773. 1 Rol. 544. 2 Bullf. 21.

(f) 4 Inst. 272. Moor 624. Cro. El. 773. 1 Rol. 544. 2 Bullf. 21, 24. Cro. Jac. 313. Moor 830, 831. Cro. Car. 46.

mes li un flander aſc que viendra deins le market in aſc chose que (a) concern son trade, la action gist bien. 2. Appiert in le count q les parols fueſt ple (b) devant le market, & nemy deins t; car sicde le court nad (c)jurisdicſt meſ p choses concernat le market, issint nad jurisdicſt p matters concernant le market sinon q ils sont fait in m le mket. Vide (d) Dier 2 & 3 P. & M. f.132. Vide Bracton 334. (e) 13 E.4.8.b. 7 H.6.19. 13 H.7.19.b. leſtatute de 27 H.6.c.5. 17 E.4. c.2. & 1 R.3.6. pari ratione ſerſt encont reafon q pleas ſerſt tenus corā Senefchallo & Marischallo hospitii dñi regis dun chose q ne concern aſc del hoſſle. Le 4 reafon ex congruo, ne ſerſt comely q aſcun Carman, ou auter mechanical pſon ſuera lauter in m le court & traher eux in aula regis ou la court ſuit originalmēt tenus, car ils navoſent veſtimēta aulica; & p t eſt record p Luke le Evangelisti, ca.7.25. Dixit ad turbā quid exiſtis videre hoēm molli- bus veſtimētis in dutū? ecce qui in veſte ſcioſa ſunt & inde- licis agūt domibus regū ſunt. Et le comon ley regard conve- niencie, & ne allow aliquid indecorū, ne t q eſt fait cont' bonos mores. 5. A m le pſiant, s. an (f) 28 E.1. c.5. ſuit pſvieu, q le chācelloz, & les Juſtices de ſon Bank luy ſuibēt, issint q il eſt tous jours pſes de luy aſc des ſages del ley q ſachent les be- ſoignes q veignent a la Court dueint delibē a tous les ſoits q miſtier ſerſt: & appiert p divers records ſubſeqnt, q le Chan- celoz & les Indges puis cē act ont lour pſvoirs, &c. & q accor- dat pſveſance ſuit fait p eux cōe appiert in roſ patent 10 E. 2. parte 2. mēſ 20. & 2 E.3. part 1. mēſ 33. &c. tāq 4 E. 3. a q l tēps le court del Bank le Roy deveigne reſidēt & toutz les pleas la eſteant corā rege: & p laſt de 4 E.3.c.3. ſuit pſhibt, que nul pſveſance ſerſt pſe grand ne petit ſoſqz tantſolemēt les pur- veirs p le roy, la roigne & de lour infants, ne pſeigne blees, &c. Mes p le dit act de 28 E.1.c.5. le general authozitie del Senef- chal baniſh, car in tant q aſant regard a t ilz fueront ſoſqz les vicegerēts del Chief Juſtice, qnt il m ſuit pſent (g) in pſentia majoris ceſſat poteſtas minoris; & uncoze per colour de lour former general authozitie ils mult incrochant ſur le com- mon ley, Et ſuit obſerve, que a nul temps puis le ſealance de ceſt act le Court del Marshallsea del hoſſle le Roy nabont tenus aſc pleas del cozone, pur ceo que les Juſtices del Bank le Roy fueront a ſuibē le Roy, & pur t ils ount uſe a oyer & terminer pleas del cozone deins le vierge per ſoſce dun com- miſſion doier & terminer in le tēps del vacation, car in tēps d l (h) term qnt le Bank ſea in m le county tous comiſſions ceſſont, Vide Kath. Wrotes en le 4 part de mes Rep. f. 47. a. Le 6.

(a) 2 Inſt. 272.

2 Bulſt. 21.

(b) Moor 624.

4 Inſt. 272. 2 Bulſt.

21.

(c) Cro. El. 773.

(d) Dyer 132. pl.

80. Jenk. Cent.

211. 2 Bulſt. 21. 23.

Moor 830. 1 Rol.

544. Finch Ley

132. a. 4 Inſt. 272.

Kelw. 99. a.

(e) Fitz Court 2.

Br. Error 171.

(f) Raſtal Chan-

cery 1. 2 Inſt. 551.

(g) 9 Co. 118. b.

2 Inſt. 26, 166.

(h) 9 Co. 118. b.

121. a.

6. Le reason pur quoy cesty court fuit limit a ceux 3 actions fuit pur c que un del hostile q vire de son salarie ou penē, puis tost ad occat a boxrower deniers & faire covenant obe aus de m hostile p appel & aus necessaries, & p tris vi & armis, cōe batterie, des biens imports, &c. p pferbat de peace ils ont jurisdict come avant dit. 7. Le reason p quoy les bounds del Marshallsea sont appel le vierge, & q son jurisdict ē cōfine deins le vierge, est p c q le Marshal portat virgā (quæ signat pacē) corā rege per spatium (a) 12 Leucarū, &c. & de virga prædict

(a) 4 Co. 47. a. De-
vant 72. b. F.N.B.
241. b.

adit al 3 point, s. le considerat touchant lart de (b) articuli su p cartas c. 3. fuit resolve q artic su p cartas est tant a dire cōe (c) explanationes su p cart, & les chēs icy menē sōt le grād chē & le chē del foress, & sūnt appiert per le pamble, Pur c que les points de la grand chē des franchises & de la foress, &c. Et in Pierce de Saltmarshes case le libye dit (q Herle Chief Justice in 6 E. 3. f. 33. b. fist lier les explanatiōs sur les chēs. s. le 11 chap de Champ tie) per q appiert, q Artic in cest case signifie Explanatiō; & ascuns dient quod dicūt articuli quia arctāt ad obedientiā. Des donqs voet estre demand in ql part de Magna Cart. poet un trover alc chose concernant la court de Marshallsea: a c fuit rīde, q le (d) 29 chap. de Magna Cart. extēd a c car la est purbieu quod nul liber homo capiat, vel imprisonet, aut disseisietur de libet tenito suo, vel de libertatibus, vel libet consuetudinibus suis, aut utlagetur, aut exuletur, aut aliquo modo destruat, nec su p eum ibimus, su p eum mittemus nisi p legale (e) judic parū suorū aut per legē terræ: p ql act chet ar- rest ou imprisonēt, & chet oppressiō contra legē terē est phibit, donqs si ascun encount lez usurpe alc jurisdict, & p coloz de Carrest ou imprison hōe, ou in alc manner p coloz dun usurped authority oppres alc hōe (que est un manner de distruct) encounter le ley, il puit estre punie per cest statute: & pur ceo que le Senescal & Marshal del Court del Marshallsea avoient acroche a eux jurisdict in divers causes qur ne appent a eux, & per colour de ceo agard precepts ascuns soits darrestre le corps del Defendaunt, & ascun soits per colour de execution de vender, &c. les biens & chateux le Defendaunt encounter ley, que est oppression per colour de Justice & un manū de destruction, a cest cause cest 3 chapter fuit enac pur explanatiō del dit grand charter quant al jurisdictiō del dit Court del Marshallsea. Int que cest act de Artic super cartas nest pas

(b) 2 Inst. 547.
3 Inst. 134. 1 Bullf.
208, 209, 210, 211,
212. 2 Leon. 160.
4 Co. 46. a. 6 Co.
12. a. 20. b. De-
vant 71. a. 5 E. 4.
129. a. Br. Actiō
sur le Statute 38,
49. 10 H. 6. 13. a.
Reg. 185. a. 191. b.
F.N.B. 241. b. Rast.
Ent. 433. a.
(c) 2 Inst. 538.
(d) 5 Co. 64. a.
11 Co. 99. a. 2 Bullf.
328. 1 And. 158.
1 Rol. Rep. 225.
4 Leon. 61. 2 Inst.
45, 46.

(e) 2 Inst. 48.

introduction d'un nouvel ley, mes explanation de grand chēe que fuit declaratorie del antient cōtion ley dengleterre. Mes t appiert auxy p celi 3 capē les ptes de q sont dē dēe cōfider. Cest chapē concernāt le Court dī Marshallsea ē vīdū in 2 general ptes, s. in un pāmbie, & le corps del act : in pāmbie 3 choses sōt pponnd dē remēdie p le corps dī act : 1. des tates des Seneschals & des Marshalls, id est, cōntnant le iurisdicē p force le lour offices in q ils ont tates, s. plōis dēs deins le Court dī Marshallsea ; 2. des pleas q eut devoient tener, p qur appiert q cest chapē fuit declaratorie, car lēntent de cē chapē fuit a reduit le Court dī Marshallsea a ē voler & droiturel instituer, le qī cē poi(devoient)impon, & p cē act lēt dēmonstēat qur pleas ils devoiēt tēn q bien accōrd obe le tītle Artic super cart & obe le līvre de (a) 6 E. 3. les explanat de les chēes, i. del common ley ; le 3 est, cōnt ils devoiēt tēn les pleas. Le corps dī act plue les ptes dī pāmbie, & pūmerāt, tout le pūbiē de t extēd solēnt al Court dī Marshallsea del hostie le roy : Qnt al pleas q eut devoient tēn, le corps del act ad fait declarāt de 3 points : 1 des causes, 2 des psons, 3 dī lieu ; p les causes le pūbiē del act est in le negatīve, in part absoluteāt & in part obe un exclusiō ; Qdein est que desormes ne teighe plea de franktenēnt & t est absolute, ne d det, ne de cōvenant des gēts de people, mes ceo est obe exclusiō, pūssimēt al causes, forsq (b) tant solēnt de trīs del hostie & dauts trīs faitz deinz le viēge, & des contractz & cōvenants, issint q ceur parols forsq tant solēnt, et. reducēt qnt al causes le iurisdiction del court a son original institution, s. al actiōns de trīs det & cōvenant, & tous auters pleas sōnt exclusiō : Qnt aux persons, si cest annād fait al cū particular declaration, come appiert devant, ilz cōvient dāber etue le pūviledge del hostie, s. in trīs, ou ābideur ou al meines un soit dī hostie, & in case de det & cōvenit ou ābideur sōt dī hostie, & de ceo auxy cē chapē ad fait exps declarāt. Et l'expōit in le Case de (c) Michelb. in le 6 part de mes Reports fuit affirm p bon ley : & vide la ad passē ambīd meāls in Parliament in Anno 1 R. 1. & vide inter-petitiones Parliamenti, Anno 1 E. 3. London 10. q la le Seneschal & Marshall pūss le dit act accroche a eux tener auters pleas que de Trespas, Det & Covenant. Quant al lieu, lēstate ad restrain ceo al viēge solēment, & pur ceo que per colour de certain inventions del Seneschal & Marshall ad ampliandā iurisdictionem suam, quant aux pleas, psons, & pēclīnā, cest chapter ad pūvieu, q desormes ne

(a) 6 E. 3. 33. b.

(b) 6 Co. 20. a.

(c) Cro. El. 502.
6 Co. 20, 21. a.
4 Inst. 130. 1 Bullst.
208, 210, 213.

ne preigne le Seneschal conusans de dets ne daut chose fors que des gens del hostle, issint que voluntarie (a) conusans de dets devant le Seneschal & Marshal per foreigners ne done al dit court jurisdiction, mes cõe un unjust incrochint sur le common ley fuit ouste p cẽ act. Aury est ouster purvieu, q nul au plea ne tĩend p obligat fait a le distres del Seneschal ou Marshal per colour de q, come appiert devat, ils accroacheount a eur in jurisdiction non solemint qĩt les pries nõt ascũ privileg, mes aury des causes q ne appent a lour jurisdiction, & eur auxi fait hors del vierge, cõe appiert p f q Fleta ad deuant Report, & q ad bien expres le voier cause & sence de les dits 2 darrein branches q de eur in fuet pleine de obscuritie. Qĩt al 3 part del painble, s. comit, &c. le corps del act ad 3 bĩaches, 1. q nul plea de trĩis ne pleadront aut q ne soit attach p eur, 2. & les pleadront hastivement de jour in jour, issint qĩls soiẽt pledes & tĩmins auat t q le roy issẽt hors des bounds de cẽ vierge ou le trĩis fuit, 3. & si per case dedeĩns les bounds de cel vierge ne point esse termines (b) cessent les pleas devant le Seneschal & soient les pleas al common ley. Et fuit observe q coment q le (c) Seneschal & Marshal sont ambideux Judges, uncore in cest darrein branch, come plusors in Fleta, le Seneschal est solement nosme pur ceo que il fuit le home del ley, & pur ceo ad le direction del court. Et le conclusion del corps del act quant al ceur 3 points est, Et si le Seneschal ou le Marshal rien facent encounter cẽ ordinance, soit lour fait tenus pur nul. Et cest ad fuit de cy grand profit & consequence, que p lact de Parliament, Anno 18 E. 3. cap. 7. ceo est enact & command destre mise in execution.

Et quant aux authorities en ley, ils sont copious, & de 4 several natures, 1. Livres des ans & termes, 2. Livres escripte de la ley dengleterre. 3. Judgments in Parliament, & tous ceur sont Thesauri apperti, 4. Judicial Records & Presidents, & ceur sont Thesauri absconditi. Et pur direct authoritie in le point in les livres des termes & ans, (d) 6 R. 2. Action sur lestature pl. ultimo. 3 H. 6. titul Estoppel 18. Action sur lestature 13. 7 H. 8. 30. 10 H. 6. 13. a. 14 H. 6. 6. b. 5 Edw. 4. 129. a. 19 E. 4. 8. b. 20 E. 4. 16. b. 22 E. 4. 11. 22 E. 4. 16. 22 E. 4. 31. b. Vide 48 E. 3. 17. b. & Register Original 111. le Plaintiff ne unques averre, &c. que lun ou lautre partie soit de hostle, causa qũa supra. Register Original 185. a. inter brevia de Statuto, Rex Seneschallo & Marescallo Hospitii sui salutem (& recite le dit Chapter del Statute & etiam

(1) F. N. B. 242.7.

(b) F. N. B. 241. b.

(c) Devant 72. a. 6 Co. 12. a. F. N. B. 241. b. 19 E. 4. 8. b. 20 E. 4. 16. b. Cro. Jac. 314. 1 Bull. 210.

(d) Br. Action sur le Stat. 49 Apres 77 a.

ex gravi querela A. de B. accepimus, quod vos ad sectam R. ipsos ad respondendum coram vobis prefati R. de quadam transgressionem, &c. infravirgam nostram apud B. quanquam neuter eorum de eodem hospitio existat, &c. vobis mandamus quod si ita est, tunc placito illo coram vobis ulterius tenendi superfedest omnino ipsum B. contra formam ordinationis predictam non molestant in aliquo seu gravant. Quel bte estez forme si le dit statut e maintenat puis le seaisant de l. e manifest proof, q le Court di Marshalsea, ne soit teli plea in trefis deins le vierge si nul des parties soit del hostile le roy. Et est deice observe q lou aucun statute prohibite aucun chose, home poet aver Superfedest in nature d'un prohibition al aucun Judge que teignent plenacounte aucun statute: & hoc appiert in plusieurs cases in le Register inter brevis in Statuto. Est auz bte observe, que qnt aucun statute prohibite aucun chose, &c. si aucun implead auter, coment que soit in course d'un legal proceeding, uncoze le partie grieve aveta action sur le statute vers le partie que lui encomiter le statute, (a) coment que les parols de le statute ne done aucun action al partie, mes ceo est un consequent q chose imply in chesun chose prohibite per aucun Statute: & ceo appiert per le dit libe in (b) 7 H. 6. 30. b. & 31. a. ou le ple grieve ad (c) action sur mesme cest statute, & 4 E. 4. 37. a. b. action sur le statute de (d) 2 H. 5. 7. pur le nient delivrie del libel. Le Tales sive nova narrationes, f. 102. un lixe cite & approve in 39 H. 6. Le diversite des Courts f. 102. F. N. B. 241. b. home aveta averment in action por vers lui in le Court de Benesthal & Marshal, q il ne fuit del hostile le Roy al temps del trefis ou contract fait, ou q le plaignit ne fuit del hostile le Roy. Vide (e) Stanford lib. cap. 5. Et cest point est resolve p Parliament in (f) 15 H. 6. cap. 1. ou en rectice, q les Stewards & Marshals del hostile le Roy & leur deputies ont tenuz pleas d Det, Deroute, & auters pleas psonel inter gentz q ne fueront de mesm hostile, seaisant mencion in leur Records, q les Plaignits & Defendants suet de mesme hostile, & ne allowing aux parties Defendants leur challenges & exceptions per eux al ledge q eux mesme ou le plaignit ne soit de mesme hostile encomiter les Leys & Statutes in ceur cases faits & purveu que ils ne seient eschappe per tiel Record, &c. ensi ayent les dits Defendants leur averment a dire que ils mesme ou les p ne suet de mesme hostile al temps de tiel plea ou fuit commence, le dit Record ou auter matter deins icel contenuz nient obstant: per quel ad le dit invention a increaser leur jurisdiction

(a) F.N.B. 160. b. 163. a. 165. b. 166. d. 241. c. 242. a. Dalt. Sh. 121. a. 2 Bullst. 209. Cro. Jac. 134. 361. 2 Inst. 55. (b) 6 Co. 20. b. Br. Action sur le Stat. 13. Fitz. Bar. 17. (c) Fitz. Action sur le Stat. 35. Br. Jurisdiction 97. (d) 2 H. 5. cap. 3. 12 Co. 61. 13 Co. 42. 3 Bullst. 5. 120. Reg. 58. a. Cr. Jac. 37. 388. Moor 756. (e) Stanf. Cor. lib. 2. cap. 5. (f) 1 Bullst. 209. 213. Rastal Marshalsea 7.

on fuit ouste, que ne fuit lorsque Declaration del Common Ley, come appiert per le dit libze in 3 H. 6. tit. Elshoppe 18. & 10 H. 6. 13. Vide les dits ans de 30 E. 1. 1 E. 3. 1 R. 2. 5 E. 3. 10 E. 3. & 33 H. 8. cap. 12. Et fuit observe q chescun ait fait concernant le Marshallsea, ou restrain ou explane leur jurisdiction, & nul ait adde aucun chose a ceo. Quant aux judicial Records appiert in Pasch. 38 E. 3. deins le Tresaurie coram Rege, q judgment done in le Marshallsea in action de Detinue fuit revers in Bank le Roy, pur t q ils nount potuer a tener plea en tiel action: & pur t in le dit Statute de (a) 15 H. 6. (a) 15 H. 6. cap. 1. en le preamble action de Detinue est malement recite.

In libze Dentes f. 278. & f. 128. comsauns 7. & 32 H. 6.

(b) Purchase Case cite in le dit Case de Michelborn, quel veies la dce adjudge in le point. (b) 6 Co. 20. Cro. El. 502. 1 Bullstr. 208, 209.

Quant al nature daction, fuit resolve que cibien le Common Ley, come le dit act de 28 E. 1. extend soleint al Trns simpliciter & nemy al trns secundum quid, s. sur le case, car ceux ne sont actions de trns sans addition; nient plus q ils poient teigner plea in action de trns sur trover ou bailment & conversion, ou semblables, mes solement de trespas simpliter s. vi & armis, & aury de tiel trns in q aucun frankteint ne poet venir in debate, come est avantdit: & accordant a cest resolutio fuit adjudge in Bank le Roy Hil 5 Jac. Regis rof 876. in (c) Jeremy Grays Case, q judgment done in le Court de Marshallsea in Action sur le Case, sur trover & conversion, fuit revers pur ceo que lestatute ne extend al Trns sur le Case: & ove ceo aury accorde le dit Case de (d) Michelb. Mes coment que cest action de Assumpsit, sur (e) general consideration quod indebitatus existit soit enconter le Ley, come appiert in Slades Case in le 4 Part de mes Reports, uncoze ils avoient jurisdiction del cause, leur proceeding in ceo ne fuit void mes voidable p briel de Error. Mes de ceo sert discusse plus largement in le 2 point, que oze insuit.

¶ Fuit resolve, q lacion gist bien vers les Defendants: & diversite fuit prise quant un Court ad (f) jurisdiction del cause & procede in verso ordine ou erroneusement, la l party que sue ou le officer ou Minister del Court que execute le precept ou proces del Court, nul action gist vers eux: (g) mes qnt le Court nad jurisdiction del cause, la tout le proceeding est corā non judge, & actions gisent vers eux sans aucun regard del precept ou proces, & pur t le dit rule cite del autre part, s. (h) qui iussu iudicis aliquod fecerit (mes quant il nad jurisdiction,

Dyer 60. pl. 23. March 8, 117, 118. (h) Devant 70. b.

non

(c) 1 Bullstr. 207, 208. Godb. 284.
(d) 6 Co. 20. b. Cro. El. 502. 4 Inst. 130. 1 Bullstr. 208, 210, 213.
(e) Post 77. a. Cro. Car. 6. 31. Hob. 5, 18. Yelverton 176. Cro. Jac. 207, 213, 214, 245, 397, 548, 642. Cro. El. 242. 1 Le. 155, 156. Godb. 401. Hard. 132, 133. Doct. pla. 20. Palm. 171. 1 Bullstr. 67. 3 Bullstr. 207. Jenk. Cent. 293. 1 Ro. Rep. 24. 379, 396. Moor 854.

La Resolution quant al 2 point.

(f) Plowd. 13. a. 9 Co. 68. a. Raymond 129. Mod. Rep. 173. Hard. 481. Cart. 19. 2 Bullstr. 64. Cro. Car. 395. March 8. (g) Hard. 478, 481. Go db 387. Cart. 19. Cro. Jac. 314. 2 Bullstrode 64.

Le Cafe del Marshallsea, Part X.

non est iudex) non videtur dolo malo fecisse, quia parere necesse est fuit bien allow, mes non est necessite de obeier cesty q̄ n̄ Judge del cause, nient plus q̄ est un mere. estrang. Car le rule est, Judiciū à non suo iudice datū nullius est momēti. Et t̄ appiert plainist in nostre liyres: & pur t̄ in le case int Bowser & Collins in 22 E. 4. 33. b. la Piggot dit si le court nad power & authoritie, donhs iour pceding est corā non iudice, come si le Court de Cōmon Bank ignoit plea in un appeal de mort, robbery ou ascun auter appeal & le Def. est attacht, t̄ est corā non iudice, quod omnes concesserunt. Mes si le Court del Cōmon Bank in plea de Det agard bte de (a) Capias vers Duke, Counte, &c. q̄ per la Ley ne gist vers eux, & t̄ appiert in le bte m̄, uncoze si le viscount arrest eux p force del Capias p̄t que comt que le bzebe soit encounter Ley, nient meins intant q̄ le Court ad jurisdiction del cause, le visc̄ est excuse: & ove d accord 38 H. 8. Dyer 60. b. Mesme la Ley si Justice of peace fait garrant darrestier un p̄ (b) felonie q̄ n̄ est pas indite, comt q̄ le (c) Justice erre in le garf de t̄, uncoze cesty q̄ fait larrest p force de cest garf ne serra punie p b̄tes de faux imprisonnt, pur t̄ q̄ il est Judge del cause, & ove t̄ (d) accord 14 H. 8. 16. a. Mes si un soit indite devant Justices de peace & confesse le felonie, & avoit un coroner, & advient approver, & fist appeal, tiel appeal devant le Roy fust adjudge pur nul, come appiert in (e) 9 H. 4. 1. b. & (f) 2 H. 4. 19. a. Vid. 44 E. 3. 44. a. b. & le rea- son de c̄ case (cōe ascuns suppose) est pur c̄q̄ le commission del peace extend soleist ad inquirend (s. al inquire devant eux m̄) audiendū & terminand, & issint lappeal si approver est hors de (g) lour cōmission p̄ t̄ q̄ lapprover ne fait son appeal devant les Justices mes devant le coroner, & le coroner record t̄ al court: mes le reason q̄ est rendue in (h) 9 H. 4. 1. b. est q̄ les Justices of peace nont power dassign̄ luy un coron̄, nient plus q̄ ils poient enquis̄ de treason, cōe la est aury tenus, pur ceo q̄ n̄ est deins lour cōmission. Issint oule (i) visc̄, q̄ est prescribe p le ley a tener sō Courne deins l̄ mois aps Mich. &c. teigne sō Courne puis le mois, & p̄ist enditeint de robbery a m̄ le Courne, & le inditeint est p Certiorari remove in Bank l̄ Roy per advice de tous les Justices le p̄tie issint indite fuit dis- charge, pur t̄ q̄ lenditeint fuit ousterint void & coram non ju- dice, intant que a cest tēps le visc̄ nad authoritie a tēti Court. Et fuit dit per les Justices, que si home ad un Leet que ad este tenus a un jour in certain, si teigne t̄ al auter jour, que tiel court issint tenus est void & sauns garf; autrement est de court

(a) 6 Co. 52. b. 54. a.
9 Co. 68. a. 2. Rol.
Rep. 434. 493.
Moor 767.

(b) Dyer 69. pl. 29.

(c) Cro. Car. 395.
602.

(d) Br. Faux Im-
prisonment 8. Br.
Peace 6.

(e) 3 Inst. 130. Fitz.
Corone 77. Br. Ap-
peal 28. Br. Coro-
ne 25.

(f) Fitz. Justices de
Peace 5. Br. Peace 1.
Br. Appeal 18.

(g) 3 Inst. 130. Ha.
pl. Cor. 194.

(h) Supra.

(i) 31 E. 3. cap. 15.
Stam. Cor. 84. a. b.
6 H. 7. 2. a. Br. In-
dictment 27. 29.
Br. Leet 17. 21. 38.
H. 6. 7. a. Fitz.
Tourn de Viscount
2. 6. Fitz. Endite-
ment 14. Fitz.
Leets Hundred 2.

court baron. Mes si le court dl comon bank teigne plea in det, rñs, &c. sans original t nest void, car ils sont Judges de ceux pleas, & ne poet estre dit q le proceeding est coram non judge: & obe t accord (a) 19 E. 4. 8. b. & obe t in le point accord le dit libye in (b) 6 R. 2. q judgemt in le Marshalsea quant (c) nul des parties est dl hostile le roy poet estre avoïd p plea (d) sans aucun bñe de Error, q l prove q t est void. Vide 20 E. 4. 16. b. 22 E. 4. 13. 10 H. 6. 13. a. Est agree in le point auxy q in trñs de vant le Seneschal & Marshal, si nul part soit del hostile le roy la t est cor non judge, pur t q ils passent leur power. Mesme le ley sñs teignent plea hors del vierge, cõe est tenu in Plo. Com. Plats Case, f. 37. b. & t accord obe le rule Extra territorium jus dicenti non pareatur impune, Vide 22 Aff. 64. Pl. Cõ. 394. b. 37 Aff. Pl. 17. 39 E. 3. 33. 34. 39 Aff. p. 6. 7 H. 4. 27. 11 H. 4. 36. 36 H. 6. 32. 22 E. 4. 32. 1 R. 3. 1. 2 R. 3. 2. 5 H. 7. 17. b. 9 H. 7. 12. 21 E. 3. Barf 271. 3 Maria, (e) Dier 135. Et obe cẽ diñsitie tous les libyres sõt bien accordez. Et qñt al dit case in (f) 7 E. 3. 23. b. & 24. a. p le comon ley appēt al office d Marshal a pteñter le court d semes puteins, cõe appiert in Fleta (g) Marechal interest virgatā a meretricibus oibus ptegere & deliberat, & habet Marechal ex cõsuetudine p qualibet meretrice cõi infra metas hospitii invēta 4. d. prim die, quā si iterū in balliva sua inveniat, capiat & corā Seneschal inhibiat ei hospic regis, reginæ, & liberoꝝ suoru, ne iterum ingrediatur, & nōia eorum imbrevent, quā si iterū invēta fuerint hospic secutrices, tunc aut remaneant in prisona in vinculis, aut sponte præd hospititia abjurent; quā si autem tertio inventæ fuerint, considerabitur quod amputetur eis tressoria & tondeatur; quā quidẽ si quarto invenient, tunc amputentur eis superlabia, ne de cetero concupiscant ad libidinẽ. Ceo esteāt le ley, appiert q le Report dl dit libye de 7 E. 3. est cy obscure & imperfect q mult del substance del matter cobient estre supplie per intendment.

Et le Chief Justice, in le conclusion d son argument, obñve, que tous les cases in qur devāt ceux heures la suēt diversitie des opinions inter cest court & le bank le roy sont oze unement resolve. 1. Que (h) general count in action sur le case Quod cū indebitatus fuit in tiel sum super se assumpsit, sauns mñans le cause del det, est insufficient. 2. Que (i) particular count in tiel case mñant le cause dl det, coñt q appiert q le p poet aver acẽ de det, bien gist, cõe fuit resolve in Slades Case. 3. Que (k) p assumpsit del testator, &c. a paiser un det ou dutie, action sur le case gist vs les executors, &c. cõe fuit adjudge

(a) 6 Co. 20. b.
(b) Br. Action sur le Stat. 49. Devant 75. a.
(c) F. N. B. 241.
(d) Doctr. plac. 277

(e) Dyer 135. pl. 14. 11 Co. 64. b.
(f) Br. Rep. 100.
(g) Devant 70. b.
(h) 3 Inst. 205.
(i) 2 Brownl. 138.
1 Rol. Rep. 24.
379, 396. 1 Bullst. 67
3 Bullst. 207. Moor
667, 854. Devant
76. a. Cro. Car. 6.
31. Hob. 5. 18. Cro.
Jac. 207, 213, 214.
245, 397, 548, 642.
Cro. Eliz. 242.
1 Leon. 155, 156.
Godb. 41. Hard.
132, 133. Doct. pl.
20. Palm. 171.
Jenk. Cent. 293.
Yelv. 176.
(i) Cro. Car. 415,
527, 540. Mod.
Rep. 163. 4 Co.
93. a. Yelv. 20. Cro.
El 756. Moor 433,
667. Dyer 21. pl.
125.

(k) 5 Co. 87. a. 93. b.
Swinnburn 327.
1 Leon. 165. Cro.
El. 121, 454, 459.
1 Rol. Rep. 433,
434. 1 Rol. 524.
Yelv. 20, 56, 196,
197. 2 Brownl.
136, 137. Cro. Jac.
273, 293, 294, 444.
3 Bullst. 235, 236,
237. Goldsb. 154.
Moor 691. Jenk.
Cent. 290.

Le Case del Marshallsea. Part X.

in Pinchons Case in le 9 part de mes Reports. 4. Cest Case del Jurisdiction del Marshallsea est ore adjudge per ambideur Courts, s. in le Case del dit Jeremy Gray in le Bank le Roy, & in le Case al barr in cest Court; encounter queux Judgements la est nul opinion in aucun de nostre livres, mes come appiert debant mults concurrent in terminis obeur in tous les points ore resolve. Tant que nostre successors, come jeo croy, assumera le dit del Prince des Poets.

Haud unquam neque concio nos neque curia dictis
Audivit pugnare, animo sed semper eodem,
Et sentire eadem, atque eadem decernere vellet.

Pasch.xi Jac.Regis.

Leonard Loveis Case.

IN Ejectione firmæ port per Robert Protot vers Roger Moxthen, sur demise fait al Plaintiff per Leonard Loveis gesi, 13 Maré An. 7 Regis nunc de 8 acres de terre in Clatton in le Countie de Devon pur 5 ans del darrein jour de June adonq's darrein pas. Le Defendant plead rien culp. & sur ceo les Juroys done un special verdit a cest effect: Leonard Loveis at fuit sessie des Mannors de Assaland & Heanton in les Counties de Devon & Cornwal & des mannoys de Rillaton, Pengelly, Willestworthy, & Tribelquite in le Countie de Cornwal in son demesne come de fee, & avoit issue Thomas son eigne firs, William Loveis, Humfry Lovies, & Richard Loveis (quel William puis avoit issue Leonard le lessor del Plaintiff) & le dit Leonard laiel 27 Septemb. Anno 12 Regina Eliz. per son fait enfeffa Roger Pudeaur at, Humfrey Specot at, & auters, & leur heirs al uses & intents in certain Indentures tripertite de in le date expres & declare, cessassavoir, des mannoys de Rillaton, Pengelly, & Willestworthy, & del mannoy de Assaland al use de Leonard Loveis laiel pur son vie sauns impeachment de wast, & puis al use des tiels fermors ou Tenants a queux il demisera ascun part des premisses pur ou durant vie ou vies, & pur ascun term des ans, come in ascun tiel demise ou demises serra limit & appoint, &c. & puis al use del performance

² Brownl. 103.
Cro. Jac. 61.
² Bulstr. 131.
Moor 772.

formance del testament & darrein volunt del dit Leonard laiel, & al use de tiel person & persons seberalment a queux le dit Leonard laiel per son darrein volunt devisee aucun estate ou estates de & in les dits mannoys darreinment mention, ou dascun part de eux, accordant al voier intent & meaning de son dit darrein volunt, & puis le performance de son darrein volunt al use del dit William Loveis & les heires males de son corps issuants, & pur default de tiel issue al use de Humfrey Loveis & a les heires males del corps del dit Humfrey loyalmment engendres, & puis al use del dit Richard Loveis & a les heires males de son corps loyalmment issuants, & pur default de tiel issue al use de Leonard laiel & a les heires males de son corps sur le corps de Jbot sa feme engendres, & puis al use des heires females del corps del dit Leonard laiel & pur default de tiel issue al use del dit Leonard laiel & ses heires a tous jours; Et del dit mannoz de Peanton al use del dit Leonard laiel pur son vie sauns impeachment de waste & al autiels uses, come est avantdit, save que le dit Humfrey est preferre quant a cest mannoz devant William, & donques al William obe tiels remainders ouster come est avantdit, Et del dit mannoz de Crabesquite, a autiels uses come est avantdit, save que Richard Loveis est preferre a cest mannoz in remainder a luy & les heires males de son corps devant William & Humfrey, & puis a mesme les uses come est avantdit: In queux Indentures la fust un power de revocation, cessassavoit, que si le dit Leonard laiel serra minde ou dispose a alter, chaunger, ou faire voide le dit feoffment, vel aliquem usum eorundem maneriorum, seu aliquem statum vel status qui accrescet (Anglice) should grow, ou serf execute per reason dascun use ou uses in aucun des dits mannoys, &c. ou si le dit Leonard laiel serra dispose daver arere les dits mannoys ou aucun part de eux, ou a doner ou disposer les dits mannoys ou aucun part de eux in aucun autre manner, que ils debaunt sont limite, ou daver arere les dits mannoys ou aucun part de eux a luy & a ses heires cōe in son former estate, & sur ceo Leonard laiel per son escript enseal obe son seal & sign obe son proper maine notefiera & signefiera son volunt & pleasure al dit Roger & Humfrey, &c. que adonques apres tiel notice & signification in tiel escript, cōe est avantdit, tiels & tants des dits manns dont il serra tiel notice ou signification en tiel escript serra tout

tout revoke & tout ousterment void, & serra al use del dit Leonard & ses h̄s, & q̄ les feoffees adonqs serra seisie, &c. al use del dit Leonard laiel & a ses heirs a tous jours, leafes in form avantdit deff̄ fait tous foits except & reserve: & puis, cessascavoit, 26 Aprilis, Anno 14 Eliz. Regina. Leonard Loveis laiel p̄chase a luy & a les h̄s de George Digley Esq; les dits 8 acres en q̄ur, & puis 16 Martii, anno 18 Eliz. p̄ son escript enseal ove son Seal, & subscribe ove son prop̄ name, recitant son dit power de revocation, signifie p̄ le dit escript al dit Roger, Dumfrey, &c. revoke & fist void le dit feoffm̄t concernant solemt̄ le dits manors, de Rillaton, P̄ngelly, & Willeworth, & le dit manor de Affaland (le Barton la solemt̄ except) & ouster de claf̄ & signifie a eux, q̄ tant & nient plus del dit feoffm̄t & Indentures q̄ cōtain̄ m̄ les p̄misses (except devant except) serra ousterm̄t frustrate & void; & le dit Leonard laiel issint esteant seisie de tous les avantdits p̄misses come le ley requis 20 Martii, anno 18 Eliz. Regina, fist son darrein volunt en escript, & debisse les dits acres a q̄ur, &c. inter alia, al Thomas Loveis son eigne f̄its p̄ leur poils ensuant: I devise to Thomas Loveis my eldest Son, all my Manors, &c. within the County of Cornwal, wherein or in the which I the said Leonard Loveis have or had any Estate of Inheritance, the Lands by me sold only excepted, and also all my Manors, Lands, Tenements, Rents, Reversions, Services and Hereditaments, with the Appurtenances within the County of Devon, wherein, or in which I have or had (besides the Lands by me sold) any manner of Estate of Inheritance. Except and always reserved out and from this present Gift, Grant, Will and Bequest my Manor of Trevesquite within the said County of Cornwal, and all the Mesuages, Lands and Tenements in Trevesquite aforesaid, within the Parish of S. Mabin in the said County of Cornwal, and also the Patronage of the Rectory and Parsonage of S. Mabin aforesaid, in the said County of Cornwal, and also except and always reserved out of this present Gift, Grant and Bequest, as well the Barton only of my Manor of Affaland in the said County of Devon, as all my Manor of Heaunton a/ Heighaunton, with the Patronage of the Rectory and Parsonage of Heaunton a/ Heighaunton aforesaid, in the said County of Devon, and my Tenement called Tenaker in the Parish of Clawton in the County of Devon aforesaid, To have, hold, occupy and enjoy the Premises,

with

with the Appurtenances, except before excepted, to my said Son Thomas, and the Heirs Males of his Body lawfully begotten, from and after my death, for and during the term of 300 years then next ensuing, fully to be compleat and ended: Upon this Condition, That my said Son allow all such Estates, Grants and Conveyances thereof already made, or at any time to be made by me the said Leonard Loveis, of and in the said Manors, Mesuages, Lands, Tenements and other the Premises to him by this my last Will given, granted and bequeathed, according to the true meaning, purport and effect of the said Lease and Leases so made or to be made: Provided always, That if my said Son Thomas, or any the Issue Males of his Body lawfully begotten, alien, give or grant the same, or any parcel thereof, to them by these Presents given, granted and appointed, otherwise than to lease, demise or grant the same, or any part thereof, to any Person or Persons, for term of any number of years, as may and shall be determined upon the deaths of any three Persons, or upon the death of any less number of Persons, to be named within the said several Leases, Demises and Grants, and whereupon the old and most accustomed Rents and Services shall be yearly reserved to have continuances during the same several Leases, That then all the Premises for default of such Issue Males of the Body of the said Tho. lawfully begotten, or to be begotten, or so much thereof as shall be aliened, given and granted, otherwise than as aforesaid, by the said Tho. or by the said Issue Males, immediately upon every or any such Alienation, Gift or Grant, so made or to be made of the Premises, or of any part thereof, contrary to the true meaning of these Presents, shall remain and come to my Son William Loveis, and to the Heirs Males of his Body lawfully begotten: and for default of such Issue, or if the said William, or any of his Issue Males of his Body lawfully begotten, make any manner of Alienation, Gift or Grant, otherwise than my said Son Tho. or otherwise than they may lawfully do by virtue of the Statute made in the 32 year of the Reign of King Henry VIII. in that case provided, or any of his said Issue Males may lawfully do by these Presents, then all the said Premises for default of such Issue, or so much thereof so alienated, given or granted by my said Son William, or by any of the Issue Males of his Body lawfully begotten otherwise than as aforesaid, shall remain and come to my Son Humfrey Loveis, and to the Heirs Males of his Body lawfully begotten, &c.

Et

Et puis le dit Leonard Loveis laiel mozt seise des dits 8 acres de terre in qur, &c. & des auters les pzemissess seisie prout lex postulat, & q les dits 8 acres sont tenus in socage, & q les dits tenemts devise p le dit volunt al temps de mozt del dit Leonard laiel fueront dannuel value de 24 l. 14 s. 10 d. per annum, & non ultra; & q les tenemts dont le dit seoffmēt fuit fait & nient reboke al temps del mozt del dit Leonard laiel fueront dannuel value 5 l. 6 s. 8 d. & que le dit manoz de Crevelquite solement est tenus per service de Chivalry in Capite, & que le dit Leonard laiel navoit aucuns auters terres, & que Thomas Loveis puis le mozt del dit Leonard laiel enter in les dits 8 acres in queur, &c. & mozt sans heir male de son corps, ayant issue Julian sa file, que prist a baron Robert Dossy Armiger, que enter in les dits 8 acres en queur, &c. Et que le dit William Loveis mozt apant issue le dit Leonard Loveis in le Brief & count mention, que enter in les dits 8 acres in queur, &c. sur le possessions del dit Robert & Julian, & demisa al Plaintiff les dits 8 acres in queur, &c. come in le count est alledge, q enter, sur q le Def. per le commandmt del dit Robert Dossy & Julian sa feme enter & luy eject; & si lentre del dit Leonard Loveis le lessoz fuit congeable ou nemy, fuit le question, &c.

Apres que cest case (esseant de grand difficulty & consequence) ad estre sobent fois argue al barre, car ceo commence Trin. 8 Jacobi Regis Rotulo 4251. In mesme cestuy terme fuit argue p les Justices, & fuit conclude que judgment serra done encounter le Pl, pur ceo q lentre del dit Leonard Loveis le lessoz ne fuit congeable. Et in cest case divers pointes fueront move & resolve p le court, aucuns sur les statutes de (a) 32 & 34 H. 8. des volunts, & aucuns al comon ley. Sur les dits statutes, 1. Si home soit seisie de 3 acres de otwel annuel value, lun de eux esseant tenus del Roy p service de chivalry in Capite, & ayant issue 2 firs, done lacre issint tenus & un des auters acres a son puisne firs in tail, per q il ad issint execute son power que il ne poet debiser p son volunt aucun part del tierce acre, & puis il purchase auts 3 acres de otwel annuel value tenus in socage, oze il ayant le reversion in fee expectant sur le done in tail (fait a son puisne firs) & les 3 acres nobelissint pchale tenus in socage, ne poet debiser forsq 2 ptes del dit tre issint nobelissint purchase in respect del dit reversion: mes encounf & deux

(a) 32 H.8. cap.1.
34 H.8. cap.5. Rastaf
Wills 2.1 Rol. Rep.
65,166,418.2 Rol.
Rep.335,383,404,
422.1 Anderf.3,4,
34, 47, 146, 147.
Dyer 72. pl.2. 85.
pl.88. 127. pl.52.
143. pl.53,54. 150.
pl. 86. 255. pl. 7.
286. pl.46. 308. pl.
74313. pl.93. 329.
pl. 16. 354. pl.34.
Benl.in Kelw.209.
1 Brownl.44. Cr.
El. 100, 524, 525.
1 Leon.113.2 Leon.
35. 3 Leon.79. 4
Leon. 35. Swinb.
28,29,30,31. Benl.
in Ath.81.N.Benl.
low 61. pl. 106.
3 Co. 31. b. 33. b.
Wentworth 10.
Jenk. Cent. 215.
233. Plow. 68. b.
564. a. Br.N.C.486.
3 Keb.554. Co.Lit.
76. a. b. 78. a. 111. b.
99. a. Hob.80,122.
2 Brownlow 246.
1 Rol.556. Raym.
112. Stiles 391.
Godb.394. 2 Keb.
66,162. Moor 38.
pl.124.177. pl.313.
314. 254. pl.401.
341, 342. pl.463.
726,727,734, 837.
Popham 89, 90.
Owen 155, 156.
1 Bullst.62.3 Bullst.
184. 2 Co. 25. b.
4 Co. 4. a. 6 Co.
16. b. 76. a. b. 77. a.
8 Co. 84. a. b. 85. a.
163. b. 164. a. 165. b.
9 Co. 126. a. b.
133. b. 10 Co. 83. a.
Cr. Jac. 157, 625.
1 Co. 25. b. 1 Cr.
Car. 34.
Points sur les
Statutes.

objections fueront faicts, 1. Que le reversion depend sur le-
state que fuit done in tail solongz le power & authority a luy
done p les acts de 32 & 34 H. 8. al puisne firs, sur q gard
ou pimer seisin est save & done per les dits acts al Roy, que
le dit reversion dependant sur le dit state tail ne impediera
le devise de les auters terres tenus in socage purchase aps,
p ceo que le Roy est un foits satisfie pur ceo; come si home
fait feoffmēt des terres dont part est tenus per service in
ch'ry in Capite al use de son eigne firs & a les heirs males
de son corps, & puis al use del puisne firs in tail, ou in fee,
& mozt, si le Roy soit un foit satisfie del gard ou pimer
seisin apres le mozt de pter, & puis leigne firs mozt sans
issue, il navera auter pimer seisin apres le mozt del eigne,
cōe solent foits ad est resolve, car les dits statutes fuerōt
satisfie obe le pīm, issint in le case al barre, les dits statutes
un foits ouveront sur le done in tail del acre in Capite, & p
ceo le reversion de mesme lacre ne restrainera le devise del
terres tenus in socage nobelmēt purchase, 2. Que le dit re-
version est (b) fruitless, & nemy dascun annuel value cy long
cōe lestate tail continue, & p c'est deins les dits acts, car
ceux ne extendont a tiels hereditaments q ne sont dascun an-
nuel value, come est resolve in Butlers & Bakers Case in le 3
part de mes Reports, f. 25. Mes fuit resolve q le dit reversion
(c) expectant sur lestate tail restrain le devise del entiere so-
cage tre nobelmēt purchase p l'express letē del act de 34 H. 8. 5.
And farther be it declared and enacted, That all and sin-
gular Person and Persons having a sole Estate, &c. in Fee-
simple, &c. of, or in the Manors, Lands, Tenements, &c. in
Possession, Reversion or Remainder, &c. holden of the King
by Knights-service in Capite: Issint q sans qstion le devisōz
ad estate in reverb de tre issint tenus, & p consequence il ne
poet deviser forsqz deux parts des tres nobelmēt purchase.
Et quant al case que ad est mise que le puisne frere in re-
mainder, apres q le Roy ad est un foits (d) satisfie per le
eigne firs, ne suera livery, fuit agreee p bone ley, p c'est q in
tiel case le letter & intention del statute est satisfie, & le puisne
firs claime p purchase & nemy come heir al eigne firs: &
pur ceo puis son mozt il ne poet est in gard ou payer pī-
mer seisin: Et ode ces accord Dyer 14 Eliz. 340. & Ma-
thew Menes Case in le ninth part de mes Reports, f. 133. a. b.
Et Coke Chief Justice dit, que fuit resolve in Bank le
Roy Hill. 35 Eliz. Regina in le Case de Clement Horward,
que

(a) 2 Co. 93. b. Co.
Lit. 78. a. 8 Co.
165. a. Dyer 308.
pl. 74. a.

(b) Co. Lit. 111. b.

(c) 11 Co. 23, 24.
Cr. El. 350.

(d) Co. Lit. 78. a.
Dyer 308. pl. 74.

Dyer 308. pl. 74.

que si (a) home seisse de fress in fee, pt de qur est tenus del (a) Co.Lit. 111.b.
 Roy in Capite p service de chivalry, cōbey deux parts de eur
 al ascun de ses firs, ou al use de son feme p vie, ou in tail,
 in tiel case il poit per son volunt devise le reversion de les
 deux parts, comit que lestatute soit in le disjunctive, per act
 execute ou per son volunt, uncoze l'intention del act fust que
 il averoit power a disposer deux parts (b) entiereint qnt a (b) Co.Lit. 111.b.
 tous esstates, & a laisser soleint le tierce part a discender; & c
 appiert p les parols de statute de (c) 34 H. 8. cessascavoir, (c) 34 H.8. cap.5.
 to give, dispose, will or assign by his will, or act executed, by
 himself solely, &c. or by all these ways, or any of them, qre
 est tant a dire, ou per volunt, ou per act execute, &c. ou
 per eur ambideur, Et quant aux dits parols del statute
 in possession, reversion or remainder, fuit resolve ou le dit
 Leonard Loveis ad remainder in tail expectant sur les
 esstates in tail limit a ses firs, q (d) tiel remainder ne fust pas (d) Moor 837.
 deins le dit act. Et p ceo si A. soit seisse des terres tenus in
 socage, & B. seisse des terres in fee tenus in Capite p service
 de chivalry, fait lease p vie, ou done in tail a C. le rem al
 A. in tail, ou in fee; A. p son volunt devise tout son terre
 tenus in socage & moust vivant le lessé p vie, ou durant le
 done in tail, le devise est bone p tout le terre tenus in so-
 cage, car tiel remainder nest pas deins l'intendint del sta-
 tute, mes soleint tiel remainder que poit traher gard &
 marriage per le common ley; come si home fait leas pur vie,
 ou pur ans, & puis grant le (e) reversion pur vie ou in tail, (e) Co. Lit. 111.b.
 le remainder in fee, & puis le granté pur vie moust, ou
 done in tail deby sans issue, tiel remainder que oze est in (f) Raymond 43.
 point dun (f) reversion est deins lestatute, car c p le com. Co.Lit. 111.b.
 mon ley trahera in tiel case gard & mariage, &c. Et que co-
 bient est remainder de tiel nature, appiert per les parols
 del dit act mesme procheine subsequent, Or if any Rents or
 Services incident to any Reversion or Remainder, car nul rent
 ou service poet estre incident a ascun remainder mes de tiel
 nature.

Qnt al 2 object fuit resolve, q la fust disjunctive int (g) here. (g) Co.Lit. 111.b.
 ditants q de leur nature ne sōt dascun annuel value, cōe bona Apres 82.a.
 & catalla felon & fugitivo, waif, stray, & filia. Vide p c in But-
 ler & Bakers Case, f.32.b. & le notable opinio de Prisot Chief
 Justice de cē court in (h) 32 H.8. sur lestat de (i) 1 H.4 & choses q (h) 32 H. 6. 22.a.
 de leur nature sont de annuel value, mes in respect dū dōe ou (i) 1 H. 4. cap. 6.
 lease absq; aliquo inde reddē sōt ne sont dascun pnt value, Rastal patent 4.
 Co.Lit. 133.a.

come en le case al barre, coint que le reversion in presentie ne soit d'aucun annuel value, uncoze la terre in est de annuel value, & p̄ t̄iel reversion est devisable come fust resolve per Popham & Anderson Chief Justices in le court de gardes Trin 34 Eliz. in Bedingfields Case, ou le case fuit, que Edmond Bedingfield de Orhozough in le County de Noxf. Armiger fuit seissie de 6 manors in les Counties de Noxf. & Suff. s. de lun de son demesne come de fe, & de les aufs in tail ove reversion expectant a luy & a les heirs, & ad issue Thomas Bedingfield, dñs de queur manors fust tenus del Roign in Capite per service de Chevalry, & chescun de eux de owel annuel value; le dit Edmond per son barresin volunt in escript debisa tous les dits manors a divers persons & lour heirs, sur trust & confidence p̄ paynt de ses detts, & adavance- ment de ses childzen & moztu, & lestate in tail que descend a son issue fust plus que tierce part de tout; oze le question fuit, si le dit devise serra void p̄ tierce part del manor in possession, & tierce part del reversion in fee, ou si soit bone p̄ intire manor in possession, & p̄ les intire reversion, ou si soit bone p̄ tout le manor in possession, & deux parts des re- version, & ceur doubts surdout sur 2 branches del dit stat de 34 H.8. le primer est, in ceur p̄ols, All and singular Person and Persons having a sole Estate in Fee-simple in Possession, Reversion or Remainder, holden of the King by Knight Ser- vice in chief, shall have full power, &c. to dispose 2 parts, p̄ q̄l clause s̄e q̄ le devise serra void p̄ 3 part del manor in possession, car le devisor ad sole estate del reversion in fee tenus p̄ service de Chevalry in Capite. Le second clause fuit, And that the King shall have, &c. for his third part, &c. such Manors as shall descend as well in Tail as Fee-simple, And that the will of every such Devisor of and for the 2 parts of the said Manors residue, shall stand good, albeit the Will be made of all his Fee-simple Lands; p̄ quel branch semble cler- ment, q̄ si le devisor avoit aucun reversion in fee mes sole- ment le dit estate tail, que le devise serra bone pur tout le manor in possession, mes le ayant del reversion sur le consi- deration del dit primer clause fuit le question, & fuit questio tortuosa & difficultatis plena. In q̄l case fuit primerment re- solve p̄ les 2 Chief Justices, q̄ reversion in fee expectant sur estate tail seck & fruitless fuit deins le dit act, pur le cause & reason avantdit. 2. fuit resolve, q̄ le dit devise s̄e bone pur deux parts des reversion & pur l'intire manor in possession,

11 Co. 24. a.

Co Lit. 111. b.

possession, & t̄ p̄ l'entendm̄t des feanz del act sur ambideux les branches, au fine q̄ les detz del devisoz serra pay & son darrein volunt perform, que fuit un des p̄ncipal motifs del feanz del dit act; & sic determinata fuit spinosa illa quæstio. Vide Dyer 14. (a) Elizabethæ Reginae, f. 308. Le seignior Paget, esteant tenant le Roign per service de Chivalry in Capite, levy fine al use de luy mesme p̄ vie, & puis al use de son eigne firs in tail, & puis al use de son secōd firs in tail, & puis al use de droit heirs del dit seignior Paget & deby, leigne firs de plein age sua libery & pasa le value del tierce part del terre in possession, & le moiety del reversion in fee, accordant al usual rate, que prove q̄ les acts de (b) 32 H.8. & 34 H.8. esteant in l'affirmative, & q̄ux do nont benefiit al Roy in respect del possession, ne tollent tiel benefiit q̄ le common ley done al Roy p̄ le reversion de m̄ le terre.

(a) Dyer 308. pl.
74. Co. Lit. 78. a.
2 Co. 94. a.

(b) 32 H.8. cap. 1.
34 H.8. cap. 5.

Fuit auxy resolve, q̄ cōst̄ q̄ (c) hereditair̄s, q̄ de leur nature ne sont dascun annuel value, ne potent est̄ devise, uncoz ils sont tenus in Capite, ils restrainera le devise des manors, tress, &c. & serra eur void p̄ tierce part, car le hereditair̄ tenus p̄ service de Chivalry in Capite ne besoigne beff̄ devisable. Et le Chief Justice in son argum̄t p̄ le plus p̄spicuit̄, d̄vide les dits intricate & prolix acts in feveral branches. Le p̄mier branch hoys de dit act de 34 H. 8. q̄ ad est̄ mention devant, All and singular Person and Persons having a sole Estate in Fee-simple, &c. of and in any Manors, Le second, holden of the King by Knights service in Chief, Le tierce est hoys del act de 32 H.8. Saving, &c. to the King, the Custody, Wardship or Primer Seisin, the clear yearly value of the third part of the same Manors, Lands, &c. Le quart clause est hoys testat de 34 H.8. may give, dispose, will or assign two parts of the same Manors, &c. Le cinq̄ clause est hoys del act de 34 H. 8. that the King shall take for his full third part, &c. such Manors, Lands, &c. as shall discend as well of Inheritance in Fee-tail as Fee-simple. Et hoys de ceuz sex̄al branches 6 t̄ps̄ suef̄ observe, car (d) Judicis officiū est, ut res ita tempora rerū quærere, quæsito tempore tutus eris, & Omnia tempus habent, & habet sua t̄pora tempus. Le p̄m̄ temps est tempus habendi, every Person having. Le second temps est tempus tenendi, holden of the King, &c. Le 3 temps ē tempus dispoñ, may give, dispose, &c. & est ascavoir q̄ p̄ tiel disposition

(c) Co. Lit. 111. b.
3 Co. 32. b. Devant
81. a.

(d) 10 Co. 127. b.
Co. Lit. 171. a.
3 Bull. 170.

sition la est un vesting, ou in le subject ou in le Roy, in le subject ou p act execute p le comon ley in le vie del tenant le Roy, ou p darrein volunt q vest soleint p force de ceux acts, in le Roy soleint p le mort de son tenant, car donqs gard ou primer lessit vest in luy. Le 4 temps est tempus appretandi seu astimandi, the clear yearly value, &c. Le 5 tēps est tempus providendi, plenā tertiā partē a discender in fee ou in tail, a full third part, &c. to discend or come by discend as well of Estate of Inheritance in Fee-tail, as in Fee-simple. Le 6 tēps est p cōstruction sur tous les parts, &c. Tempus continuandi, seu tempus continuum.

11 Co. 24. a.
Co. Lit. iii. b.

Et fuit tenus q les dits trois former temps doyent concurre, cessascavoir, le temps del having, le temps del holding, & le temps del disposing doyent concurre ensemble; & p t si home soit seisle dun acre de terre in fee tenus del Roy in Chief p service de Chivalry, & des auters deux acres in fee tenus in socage, & le tenant infeoff son puisne firs del acre tenus in socage, & le tenant infeoff son puisne firs del acre tenus in chief, & del un des auters acres, a aver a luy & a ses heirs, & puis il purchase terres tenus in socage, q in cest case il poet debiser tous les terres nobelment purchase tenus in socage, & t pur trois reasons; 1. Pur ceo que il naboit aucun terre tenus per service de Chivalry in Capite al temps del devise, car les dits acts ad fait un mariage ou conjunction des firs q le tenant le Roy avoit in socage, ove le terre que il teigne del Roy p service de Chivalry in Capite, car les parols del ambideur les acts sont, Every Person, &c. having Manors, Lands, &c. may give, dispose, &c. two parts of the same Manors, Lands, &c. & le Saving in le dit act de 32 H. 8. est Saving a full third part, &c. of the same Manors, Lands, &c. issint q quant le tenant ad conveye le terre tenus in Capite a son puisne firs, ore quant il fist son volunt del terres issint nobelment purchase, il naboit aucun terre tenus del Roy in Capite al temps del devise, & les statutes restrain soleint les firs in socage, qur il naboit al temps del having des firs tenus in Capite. 2. Les dits acts done a luy full power and authority to give, dispose, will or assign two parts for the advancement of his Wife, preferment of his Children, or payment of his Debts; issint q qnt le statute ad done a luy power a conveyer deux parts (dont le terre tenus per service de Chivalry in Capite est part) lendent des firs del act ne unqs fuit a psumer luy q ad solong lact

laet convey le terre, de aber mesme la terre pur ascun intent ou purpose; & come est resolve in *Mights Case* in le 8 part de mes Reports Trin. 7 Jac. f. 194. terre q̄ est convey al un des dits 3 fines ne poet estre dit (a) covinours, p̄ t̄ q̄ est garrant per laet. 3. fuit observe le grand benefit q̄ le Roy ad p̄ ceux statutes, car le tenant le Roy in Capite devant ceux statutes puit ad issint convey la fre a ascun des dits 3 uses, q̄ le Roy ne unques averoit (b) gard ne p̄imer seisin, come appiert in *Sir George Cursons Case* in le 6 part de mes Reports f. 756. Et p̄ t̄ ne serra reasonable a enterpreter lestatute in pre-judice del subject incounter l'expresse letter, cessascavoit per sabant un 3 part de mesme les terres que le tenant le Roy adonques aboit, a extender t̄ ouster les parols aux terres tenus in socage queux il purchase apres il ad convey ouster le terre in Capite. Mes le greinder question fuit, que si Leonard Loveis laiel ad convey (come fuit admit) le terre tenus per service de Chivalry in Capite al William Loveis son 2 firs in fee, &c. obe power de revocation, issint q̄ il ad power sur la terre & poet disposer de ceo, si ceo restrainer le power de Leonard Loveis a debiser, tout le terre in socage nobelment purchase. Mes le Chief Justice teigne tout un pur les raisons & causes abantdits, & eò potius p̄ ceo que lestatutes done a luy power a doner, disposer, &c. deux parts, &c. a son volunt & pleasure; issint intant que son volunt & pleasure appiert a conveyer la terre al William, come est abantdit, obe power de revocation, il p̄ t̄ pursue le power que lestatutes done a luy, quod Nichols Justice concessit. Et sicome ceux statutes aboient estre mise in ure solonque l'expresse purbieu coment que damage ad accrue al subject come in *Vincent's Case* hysment bouche p̄ le seignior Dyer 22 Eliz. 367. fuit resolve q̄ (c) si le tenant le Roy in Capite per service de Chivalry convey la terre al use de la feme & les heirs, ou al use de son puisne firs & les heirs, & moxist, son eigne firs deins age, q̄ comit q̄ leigne firs soit disherite, uncoze afflictio addetur afflictio, il serra in gard al Roy comit q̄ il nad riens per discent per l'expres purbieu del statute; issint nul interpretation serra fait pur le benefit del Roy en-counter l'expres purbieu; & obe t̄ accord Wray Chief Justice in le dit Case de Butler & Baker 31. b. Et p̄ t̄ si feme tenant le Roy de fre in Capite ad issue file (d) Bastard, & covey la fre a s̄ (e) bastard file & moxist, le Roy nad a gard, car si soit deins lest' de 32 H.8. comit eē un child in ley & Nity, & nēp in reputa-

(a) 8 Co. 163. b.
164. a. Co. Lit. 78. a.
2 Inst. 110.

(b) Co. Lit. 78. a.
6 Co. 76. a. 8 Co.
164. b. 2 Inst. 110,
111, 112.

(c) Co. Lit. 78. b.
Cr. Jac. 157. Dyer
367. pl. 42. Br. N.C.
394.

(d) Co. Lit. 78. a.
6 Co. 77. a.

(e) Co. Lit. 3. b. 123.
a. Jenk. Cent. 239.
Cr. El. 358, 509.
Poph. 188. Goldsb.
191. Moor 430.
Noy 35. 2 Rol 43.
44. 1 Anderf. 79.

reputatiō, cōe ē resolue in Thorntons Case, Dyer M. 17 & 18 El. f. (a) 345. Vide Dyer 12 El. (b) 296. & uncore un chantery in (c) reputatiō fuit adjudge deins lestat de 1 E. 6. c. 14. 22 El. Dyer (d) 368. in le Dean de Pauls Case. Et le Chief Justice dit, q̄ fuit resolue in court de gards in Trin. 25 El. q̄ ou Sir Nicholas (e) Strange chivaler fuit tēn le Roy del manoz de Hunsstanton, & des dits manoz, fres & tenemts, tenus in Capite, in le County de Norff. & Damond Strange son eigne firs & heir apparant pchase les dits manoz, fres & tenemts de luy bona fide p argent, & le dit Sir Nicholas moyst, le dit Damond de pleine age, & cē mart fuit trove p office; & fuit resolue p Wray & Anderson Chief Justices, q̄ il ne paieit p̄m̄ seisin, car les p̄ols des dits statutes sont, give (q̄ imply deff fait ex mera liberalitate & voluntate: Vide Bracton lib. 2. cap. 5. fol. 11.) & cōnt que les parols sont dispose & assign, uncore le conclusion est p le p̄ferment de ses childzen, &c. & purchase ne poet estt dit p̄fermt, car chescun p̄fermt doit estt auxy ex mera liberalitate & spontanea voluntat; & accordant fuit resolue (come adonqs fuit dit) in Porriges Case in anno 12 Eliz. Et Randals Case in 4 & 5 Ph. & M. Dyer 158. fuit cite per chescun des Justices in le argum̄t de cest case, (f) home seisse in fee de fre de socage tenure, assure t al use la feme p la jointure in anno 32 H. 8. & puis in anno 2 E. 6. il purchase terres tenus in Capite in Chivalry, & de 2 parts de ceo fitt son volunt & deby son heir deins age, & si le roign aver rien del socage a fait plein tierce part de tout, fuit le question; & resolue que non, car les parols del act de 34 H. 8. de explanation sont, and having no Lands holden by Knights-service: q̄l prove q̄ le temps de having, holding in Capite p service de Chivalry, & del disposing, doit concurre. Et (g) diversit̄ fuit p̄ise & agreē inter disposition p act execute in la vie del devisoz, & per son darreine volunt en escript: & pur ceo si home seisse de terre tenus in socage del annuel value de 20 l. per annum, & nad ascun terre tenus in Capite p service de Chivalry, & fait son volunt en escript, & per ceo il devise le socage terre, a un autre in fee, & puis il purchase terres tenus in Capite per service de Chivalry al annuel value de 20 s. & moyst, cest devise ne serra pas bone pur tout le socage terre, car riens est dispose ou transfere ouster per le volunt tanque le mort del devisoz, & la fuit un union del terre tenus in Capite & del terre de socage tenure, issint que le temps de having

(a) Dyer 345. pl. 4. Co. Lit. 78. a. 6 Co. 77. a.

(b) Dyer 296. pl. 23

(c) 2 Rol. Rep. 127

Hob. 308. Goldsb.

93. Godb. 315. Cr.

Jac. 608. 1 Jones 2,

3. 4 Leonard 159,

160. 11 Co. 13. a.

(d) Dyer 368. pl.

47. 4 Co. 106. b.

108. a. 4 Leon. 156,

&c. Jenk. Cent. 245

1 Rol. Rep. 417.

Hughes Abr. 1717.

11 Co. 13. a.

(e) Palm. 214. Co.

Lit. 78. a.

(f) Dyer 158. pl. 33

3 Co. 30. b. 6 Co.

76. a. 2 Brownl.

105.

(g) Co. Lit. 78. a.

having, holding and disposing cōcurre, & obe t accord loppin-
 tion en le dit case de Butler & Baker. Ilint & pur m le cause,
 la est tenus, que si (a) home soit seissie des terres tenus p
 service de Chivalrie in Capite, & des fres tenus en socage, &
 p son volūt en escript devise tous les dits fres, & puis alien
 les terres tenus in Capite, q cest devise, est bone p tout la
 terre en socage, & plusors auters cases a tiel effect, mise en
 le dit Case de Butler & Baker, qur poses vier la. Et ou le
 Statute de 34 H. 8. dit two parts as well of the said Manors,
 Lands, Tenements, Rents and Hereditaments, as of all and sin-
 gular his other Rents and Hereditaments, Ceux darreine pa-
 rols, as of all his singular and other Rents, doiet ad referēce
 al commencement del sentence, cessascavoir, having a sole E-
 state, &c. of or in any Manors, Lands, &c. holden in Capite,
 Car sil navoit aucun fre in Capite, il nest restraine a deviser
 forsqz deux parts, car donqs il poet deviser tout; mes ceux
 pois fueront necessarie destt adde, car le commencement de cē
 bianch extend solemt a enhabler le Tenant a deviser, &c.
 deux parts des terres tenus in Capite solemt, & p t fuit ne-
 cessary de adder as also of all and singular his other Rents and
 Hereditaments, nēt tenus in Capite p service de Chivalrie;
 mes tous les pois ensemble pbont (cōe ad estt dit) que le
 tēps de having, holding & disposing, doiet concurre. Quant
 al 4 temps, s a quel temps le value del terre dont le Roy
 aha le tierce part serra prise, fuit resolve que le value des
 terres serra prise come ils sont al temps del (b) mort del
 Tenant le Roy: Car donques p le savant en case de Act
 execute le title del gard ou pīmer seisin vest en le Roy, & en
 case de volunt t auxy prist effect p 2 parts p le mort del Te-
 nant, & le 3 part descend al heir dont le Roy aha le gard ou
 pīmer seisin, ilint q temps appreciandi, doit concurre obe
 le temps del mort, mes le temps del vesting en le subject per
 Act execute, & le temps del value ne concurront my. Et le
 resolution de Virgil (c) Parkers Case en le 8 pt de mes Re-
 ports, le darreine case, fuit cite & agreē destt bone Ley, ou le
 case fuit, Que Virgil Parker fuit seissie del Manor de Fushil en
 fre, tenus del Roy p Service de Chivalry, come de son
 Duchy de Lancaster, Anno 27 Eliz. fist feoffmēt dun half del
 Manor al use de luy mesme p vie, & puis al use de Marie que
 il intend a marrier pur vie, obe dīss remainders ouster, il
 marry Mary Cony, & puis devise l'auter half a divers, pur
 payment de ses Debts & Legacies, & moyst, & fuit resolve,
 que

(a) 3 Co. 35. a.
Co. Lit. 111. b.

(b) Co. Lit. 113. b.

(c) 8 Co. 173. b.
Co. Lit. 76. b.

(a) 8 Co. 173. b.
9 Co. 133. b.

(b) Moor 607.
Jenk. Cent. 267.

(c) 3 Co. 34. b.

que intant q̄ ladvanceint de son feme est cibien deins lestate come payint de ses debts, & lestat (q̄nt al values) princípalint p̄nt s̄ effect p̄ le mozt del Tenant le Roy, a cest cause coínt que lestate la feme ad le precedency, fuit resolve que le 3 part del Roy terra prise (a) equalint hors des ambideur halves, & nemp hors del half issint debíse solemnt, & accordant, come appiert la, ad este resolve d'íxs foits devant. Quant al 5 temps, s̄, a províð un 3 pt a discend, cessalcavoír, que si home seísse de ctain terres pt de queur est tenus in Capite p̄ Service de Chivalry al annuel value de 60 l. per ann. tous queur terres il conbey a un des dits 3 uses, & puis purchase terres del annuel value de 20 l. ou pluís en Tail ou en Fé, & laísse t̄ a discend p̄ le 3 pt due al Roy, ceo est assets bone, car cest temps a províð un 3 pt ne besoigne a concurt obe le temps de having, holding ou disposing per Act execute Mes suffist si cest temps concurt obe le temps del value, cessalcavoír, le temps del mozt le Tenant le Roy, & t̄ apiert per le expres lett del Act de 34 H. 8. s̄, That the King shall take for his full third part, such Manors, Lands, &c. as shall descend in Fee Tail or Fee simple, sans aucun parols de reference ou restraint, ou aucun union fait de ceur terres q̄ discend obe le terre tenus in Capite, per Servit̄ de Chivalr̄, cōe les auters clauses avantdits sont. Dñt al 6 temps, s̄, tempus continuum, a ascun intent temps cobient a continuer usque ad mortem, & en ascun Case, post mortem; usque ad mortem, lestate conbey al ascun des dits 3 purposes cobient continuer jelsq̄ le mozt del Tenant le Roy, come est resolve en (b) Bingham's Case, en le 2 pt de mes Reports f. 91. a. b. Post mortem, 1. Le tenut p̄ Service de Chivalry in Capite, cobíet a cōtinuer post mortem, car si le tenut soit forsq̄ durāt le vie del Tenant, issint q̄ t̄ ne continue puis son (c) mozt, t̄ ne restraffia le debíse de les auts terres, come est tenus en le dit Case de Butler & Baker. 2. Lestate del terre tenus cobient a continuer puis le mozt del Tenant, & p̄ t̄ si Tenant en Tail soit a luy & a les h̄s males de son corps, le remaínd en fé al aut̄, de terre tenus p̄ Service de Chivalr̄ in Capite, & est seísse des auters terres en Socage en Fé, & per son volunt en escript il debíse tous les Socage terres, & mozt sans Issue male, en cest case la Debíse est bone p̄ tout le Socage terre, car lestate del terre tenus determine per son mozt, issint, que ne fust ascun cause de gard al Common Ley, mesme la Ley si lestate del terre tenus, soit defeat per condí.

condition puis le mort del tefi Vide 13 Reg.El. (a) Dyer f.3. (a) Dyer 298. pl.
 Le pybity del heir le tefi doit continuer puis son mort, & p^{30.} 1 Co. 133. b.
 t si le tefi le Roy in Capite covey tout son fre al ascun des 1 Keb.800. 2 Keb.
 dits 3 uses, & puis e attain de treason, & puis il moyst son 145. Co.Lit. 76.b.
 issue deins age, in ce case le Roy naxa le gard, p^{248.} a. 2 Rol. 39.
 t q il moyst 2 Rol. Rep. 469.
 sans heir in respect del corruption del sanke, & in quel case
 nul (b) gard poet accruer p le comon ley, cœ fut resolve in (b) Co. Lit. 78.2.
 S.Everard (c) Digbies Case, Mich. 7 Jac. in le 8 part de mes (c) Bakers Chron.
 Reports f. 165. b. 433. Wilsons Hist.

1. Si le use limite per les dits Indentures tripartite al
 William Loveis in tail ove le remainder ouster soient in
 contingency ou nemy, ou si les uses soient maintenant exe-
 cute p lestatute de * 27 H 8. des uses in William Loveis * 27 H. 8. cap.10.
 ove les remainders ouster; & le Chief Justice tegnoit q les
 uses fueront in (d) contingency, & nemy execute tanque le (d) 1 Rol. Rep. 436.
 mort de Leonard Loveis laiel; car quant il ad per les dits Lit. Rep. 219.
 Indentures limit a luy mesme estate p vie, & sur le matter
 power a fait leases p vie, vies ou ans, sans ascun restraint
 des vies ou ans, donqs quant le limitation e ouster al use
 del performance de son testament & darreine volunt, & al use
 de tiel person & persons leveralmt a qur il per son darreine
 volunt debisera ascun estate ou estates, p ceux parols sans
 question il poet debiser le dit fre al ascun person in tail, ou
 in fee (car il ad power devant a fait leases p vies ou ans,
 sans ascun limitation) & p consequence le use limit a Wil-
 liam Loveis in tail ove tous les rem ouster sont in contin-
 gency; car ou est in (e) averoust & incertain le quel le use ou (e) 2 Rol. 479.
 lestat limit in futuro unques vestra in estate ou interest ou 3 Co. 20. a.
 nemy, la le use ou estate est dit in contingency, p t que sur Raym. 144.
 future contingent ceo ou poet vester, ou ne unques vestera,
 come le contingent harrera; & p t est diversity inter un
 tiel contingency, come est avantdit, & limitation des estates
 per parols de contingency q extendont sur limitation des
 former estates & queux vestont in estate ou interest mainte-
 nant a pnder effect in possession in futuro, come in 5 E. 3. 27.
 (f) William lessa a John pur vie de John, render a Wil- (f) 2 Bulstr. 230.
 liam rent de 40 s. durant le vie de William, & aps le mort Lit. Rep. 316, 321.
 de William a John & ses heirs, cest remainder a John Hetl. 67.
 ne poet vester maintenant, pur ceo que peradventure ceo
 ne unqs vestera in estate ou interest, & le contingent in cest
 case est le temps del mort de William, car si William moyst
 vivant J. S. le rem est bone, mes si William survise John

Leonard Loveis Case. Part X.

- (a) Plowd. 33. a. & moyst aps luy, le remainder est void. Vide (a) Pl. Com. in Colthirts Case. Pasch. 36 Reg. El. Rot. 348. inter (b) Acton & Hore in Bank le Roy le case fust, q fine fust leuy al uses de A. & les heirs males de son corps tanque il ou les heirs males de son corps au fait tuel chose, & puis tuel chose fait al oeps dun autre en tail, & moyst sans issue sans aucun chose fait, & fust adjudge que le remainder fust in contingency & ne unques eschy. Si un ad fait feveral leases de 2 feveral acres de terre pur deux feveral & divers termes cibien in commencement come in fine, & puis fist lease dambideux acres a commencer apres le determination des dit feveral termes p xl ans, & ne expeitara a commencer apres le barreine lease, mes (c) bestera maintenant in interest reddendo singula singulis, cõe est adjudge in Justice Windhams Case in le 5 part de mes Reports, f. 7. b. (& Vide (d) 6 E. 3. 53. bone case. Vide (e) Borastons Case inter Hinde & Ambry in le 3 part de mes Reports) car ceo best maintenant in interest a commencer in possession apres le determination dun former terme pur ans: Mes in le case al barre ciens poet bester per le devise a William Loveis ne les remainder suffer tanq le moyt del devisor, p & que il ad power per son volunt a deviser al aucun person quel estate soit & in fee simple il doit, ergo, & ne poet maintenant bester in William Loveis, & p consequence in nul des remainders; sur q insuit q in le mean temps le use del fee best (f) atere in Leonard laiel (come fust adjudge in Sir Edward Cleres Case) & donques il fust seisse des terres tenus in Capite al temps del purchase des dits 8 acres in queux, &c. & a cest cause, il apant dispose deux parts per ad execute selonque testatute il ne poit deviser les dits 8 acres, car apiert per le recozd que il ad conbey per le feoffment terres & tenements al annuel value de 55 l. 6 s. 8 d. & la terre mention destre devise n'est forsq al value de 24 l. 14 s. 10 d. per annum, & le feoffment ne poit extender a les dits 8 acres, car ils fueront purchase apres, mes esteant un barreine volunt terra drection a declarer uses sur le feoffment; & qnt la terre passera per le volunt in & quant p le feoffment, Vide le dit Case de Sir (g) Edward Cler. Mes encounter & fust object, que le fee que Leonard laiel ad per operac del ley vanish p le moyt de luy, intant q il fist nul disposition del fee in fee simple p son volunt, q fust grant come ad &c resolve debat. Mes fust rñde & resolve, q le dit residu
- (a) Cr. Jac. 259, 510
1 Sand. 184. 2 Rol. Rep. 284, 411.
3 Keb. 85. Palmer 390. Moor 191.
(d) 2 Rol. Rep. 411. Palm. 390.
(e) 3 Co. 21. a. Cr. Jac. 461, 510. Palmer 141.
(f) 6 Co. 18. a. Co. Lit. 111. b. 271. b. Lit. Rep. 288, 321. Moor 493, 567. Cr. Car. 39.
(g) Jenk. Cent. 260. Cr. El. 877. Cr. Jac. 831. Moor 476, 567. Co. Lit. 111. b. 3 Keb. 538.

in fee expectant sur lestate tail ne vaniſſh, come pleinerſnt ap-
piert. Autre objection fuit fait, q̄ entant que les parols des
ſtatutes de 32 & 34 H. 8. ſont, lawfully execute in his life,
&c. in ceſt caſe, intant q̄ les dits uſes fueſt in contingency
nul execution dalcun eſtate fuit forſque apres le mozt de
Leonard laiſel, & iſſint hoys del ſtatute. A q̄ fuit reſponde, q̄
puis le mozt de Leonard laiſel les dits eſtates fueront deriſve
& p̄iſt leur eſſence & effect per force del dit (a) feoffm̄t fait,
& iſſint ſur le mat̄ execute en ſon vie. Aury fuit tenus per le
Chief Juſtice, que le remainder al William Loveis per le
volunt eſt contingent, intant que nul alienation eſt trobe
deſtre fait per Thomas, car in effect eſt deviſe a Thomas &
ſes heirs males, Prohibited que ſil alien ē, que donqs ē p̄
default diſſue male de ſon corps remainera a William, &c.
iſſint que ſont deux maine impedim̄ts al remainder, s. que
ne fuit aſcun alienation, & ſi aboit eſtre alienation donques
aury ſer̄t repugnant que apres alienation que le terre re-
mainera al William, & iſſint quacunque via data le remain-
der, come ceſt caſe ē, ne veſt in William. Et les ſeveral
pennings del deviſe al Thomas ove contingency a remain-
der ouſter a William, & del deviſe al William & le reſi ou-
ſter, fueſt obſerve, q̄ur p̄bont ſeſal intents in le teſtatoz, cōe
appiert in (b) Edriches Caſes in le 5 part de mes Reports
f. 118. a. b. ſur leſtā de (c) 32 H. 8. de Rents. Des ceſt point
ne fuit reſolve p̄ le court. Auz point al cōmon ley fuit aury
mobe in le caſe, s. le q̄l le dit rebocā in le rēt menē fuit luſſi-
cient ou nemy: touchāt q̄ ſont 3 choſes deſtre cōſider, 1. Son
power reſerve a luy p̄ le p̄biſo de rebocatiō, 2. In le rebocā
ſil ad p̄ſue ſon power; p̄merim̄t, les pois del power devi-
dout eur m̄ in 5 branches, 1. Que ſi le dit Leonard Loveis
laiſel ſer̄t diſpoſe to alter, change, or make void pr̄d' feoffa-
mentū, &c. 2. Vel aliquē uſum ſeu uſus, &c. ſuperius limitat',
3. Vel aliquē ſtatū vel ſtatus qui accreſcerent ſeu execut' forēt
ratione alicujus uſus, &c. 4. Aut ſi pr̄d' Leonard' Loveis avus
diſponeret' rehabere omoia & ſingula pr̄d' maneria, &c. vel
aliquā partē eorundē, 5. Vel eadē maneria vel aliquā partem
eorundē diſponere vel donare in aliquo alio modo, vel eadē
aut aliquā partē eorundē rehabere eidē Leonard' & h̄eredi-
bus ſuis, ut in priſtino ſtatu ſuo, &c. & ſuperinde ſignificaret
voluntat' & beneplacitū ſuum inde al feoffm̄s ou aſcū de eur,
&c. quod tunc immediate, &c. les manors, &c. ſerront al uſe
de Leonard Loveis laiſel & ſes heirs, ut in priſtino ſtatu ſuo.

p̄ 2

Don-

(a) 6 Co. 18. a. Co.
Lit. 111. b. 271. b.
2 Browl. 52. 1. Bul-
ſtrud 200. Cr. El.
878. Cr. Car. 39.
Hob. 160. Moor
262, 567.

(b) 2 Rol. Rep. 246,
278. Lit. Rep. 93.
(c) 32 H. 8. c. 37.
Vaugh. 48. Dyer
375. pl. 20. Raſſals
Rents 2. Co. Lit.
162. a. b. 351. b.
4 Co. 48. b. 50. a.
51. a. 8 Co. 64. b.
65. a. 7 Co. 38. b.
Cr. El. 805. Cr. Car.
471. Goldsb. 30.
1 Anderſ. 47. Co.
Entr. 119. pl. 2.
1 Leonard 302.
2 Leonard 153.
3 Leonard 59.

Doncs le revocation estoit sur 2 parts, 1. il signifie al feoffees q tant de le feoffment & les Indent q concern certain manors serf void, q fuit object ne poet est p t q lendent fuit fait 26 Septemb. anno 12 Regina Eliz. & le feoffment fuit fait 28 Septemb. ensuant, & p t lendent pcedent ne poet avoider le feoffment q passa p livery subsequent : auxy il declare that so much of the Feoffments and Indentures and no more as concern only parcel of the Premises serf void, & admittant q feoffment & indent poent est avoide & fait void in tout, unt ne poet est avoide in part, s. le fait del Indent, quoad un manor dest fait void & a pder son force, & quoad aut a estoier cœ un fait, & de tiel effect come fuit object est le 2 branch, s. I will that so much and no more of the said Feoffment and Indentures, and every Clause and Article therein contained to be utterly frustrate and void, &c. 3. Le nature del choses dest revoke fuit consider : q tous les declarations & limitations de les uses in lendent al temps del fait del revocation fuit solemt in contingency, & tiens in estate in possession, reversion ou remainder, ou in infest, mes solemt in possibility, le ql ne poet est revoke ou change, ou alter, car revocation, alteration ou change suppose un former essence, come le rule del Logitian est, (a) Omnis privatio presupponit habitum : & comt q futures powers & authorities annex al estates, come power a faire leases, &c. done a cest q ad estate p vie poent ove lessates est revoke, uncore fuit object q quant tout est in contingency ou possibility, t ne poet est revoke, & le use q p operation del ley fuit vest in Leonard Loveis laiel ne poet est revoke, car le proviso de les Indentures extend solemt al uses declare p m les Indentures, & nemy al use create p la ley. Mes fuit respond & uneint resolve p le court, q le revocation fuit assets bone, car uses & powers in contingency & possibility poent est p mutual assent des parties (b) revoke & determine, car sicome ils poet est raise p Indenture, issint p proviso ou limitation annex a eux in m lendent ils poent est extinct & destroy, ou devant ou aps leur essence : Et fuit resolve, q ceur pors, the said Indentures and every Clause and Article therein contained, extendont a tous les uses & limitations in contingency & possibility. Et cœ resolu concurre ove comon experience, s. q estates limit al 1, 2, 3, &c. fuis devant q al t soient nœs, sont p autiel pvisoes usualmt, & sans qstion de jour in jour revoke. Et sans question les Inden-

(a) Co.Lit. 341.b.

(b) 2 Rol. 792.

Indentures, qñt al direction & declaration des uses, poent pder leur force in pt & estoier in part; & si le operation qñt al pt soit tolle p le (a) proviso, donqs le feoffint p cest pt est al use del feoffor & ses heirs, & p consequence in le case al barre ou Leonard Loveis ad use best in luy p operation del ley sur le feoffint tanqz auter declaration fuit fait p son volunt, oze p le revocañ il ad absolute estate in fee-simple ut in pristino statu suo sans aucun limitation.

Auxp le Chief Justice teigne, qñ le dit devise a Thomas fust foizqz p ans, p tñ qñt est in expres pòls devise, & encounter expresse pòls nul inference ou interpretation serra admist in cest case, car les paròls sont, *Item, I give, grant, will and bequeath, to my Son Thomas, all my Manors, &c. To have and to hold to my said Son Thomas, and to the Heirs Males of his Body lawfully begotten, from and after my death, for and during the term of (b) 500 years then next ensuing, fully to be compleat and ended, &c. & les remainders a William Loveis & auters, a chescun de euz & a leur feveral heirs males de leur corps sans aucun restraint al aucun number des ans, & Nota le liberty done al Thomas est in ceuz pòls, otherwise than to Lease, &c. the same for years determinable upon the death of any three Persons, or les number of Persons, mes in le liberty done al William & les auters, les pòls otherwise than they may lawfully do by the Stat. of 32 H. 8. qñt il ne mention in le devise al Thomas: issint intant qñ Thomas nad estate foizqz p cinquecent ans, cy long cõe il ad issue de son corps il done a luy power foizqz a demiser p ans, mes al William que ad estate tail, il laisse a luy power a demiser le tñ p 3 vies ou 21 ans solonqz lestatute de 32 H. 8. que done tñel power al tenant in tail: & obe ceo accord Winch Justice. Des ceuz paròls, during the term of five hundred years serra limitation al terme dans a determiner ceo pur default dislue male. Et que ceo nest foizqz (c) terme pur ans in grants les liures sont expres in le point, (d) 11 Aff. 21. 33 Aff. p. 17. 39 E. 3. 37. 19 E. 3. Account 56. 9 H. 6. 58. 22 H. 6. 33. 34 H. 6. 27. Lit. 168. Dyer 10 El. 276. Vide 21 H. 8. (e) tit. Estates B. semblable. Des qñt a cest point qñ ad eñtre controverted inf cest court & le court del Bank le Roy in former action port sur cest devise, nul resolution fuit a oze qñt a cest point per le court. Nota, Lexteur, si un (f) terme soit devise a un & a les heirs males de son corps, son heir navera ceo, mes les executors, car*

(a) Co. Lit. 237.2.
2 Rol. 792.

(b) Moor 773, 810
Cr. Jac. 62, 63.
1 Rol. 741, 831,
847.2 Brownl. 104
Cart. 166. Godolp.
Leg. 351.

(c) Cr. Jac. 62.
(d) Br. Estate 32.
Br. Assise 172.
(e) Br. Estate 50.
(f) 1 Rol. 611, 741,
831, 915, 916.
1 Rol. Rep. 356.
2 Rol. Rep. 129, 424
Cr. Car. 210. Orp.
Leg. 348, 351.
Swinb. 135. 1 Sid.
37, 451. 1 Jones 15
16. Godb. 42. Dyer
7. pl. 8 Co. 95. a.
Wentw. 333, 334.
1 Bulst. 191, 192.
4 Leon. 246. Cr.
Jac. 510. Palm. 334.
Brownl. c. 209, 334
Moor 758, 807,
810, 831. B.N.C.
209 & 334.

(a) 1 Rol. 837.
2 Rol. Rep. 139.

Cr. Eliz. 143.

terme h nest d chancel ne port (a) est intall, e ciel debisset
port bien alien le terme a d si boite e dunt suit adjudge Tr.
18 Eliz. in Bank le Rep. in Peacocke Case, e anno 31 Eliz.
refolde y Anderson e Walmsley essant prestre el cur boys
del Chancery inter Higgins e Dillen.

Hill. viii Jac. Regis.

Doctor Leyfields Case.

John (a) Leyfield Doctor de Divinitate port Action de Trespass in Bank le Roy Hill. 8 Jac. Regis Rot. 1282. vers Henry Villory des blees & seine pisse & asport al Old Cleve in le County de Somerset. Le Def. plead in barre q le Roigne Eliz. fuit seissie del Rectory de Old Cleve in in le County in son demesne come de fee come in droit del Corone Denglitche & p ses lettres patents 20 Junii 35 de son reign (sans dire (b) ex monstre avant) demisse le dit Rectory al Conard Prowse p son vie, q 16 Januarii anno 3 Jac. Reg. demisse le dit Rectory al George Pincombe p 8 ans si le dit Conard tam diu viveret, & q le Def. cōe servant del dit George pisse les blees & seine come dīmes seber del 9 parts, & abert le vie del dit Conard, sur q le Pl demurre in ley & monstre le cause de son demurre, pur ceo que le plea le Def. amount al (c) general issue: & fuit adjudge in le Bank le Roy q le barre fuit insufficiet, pur ceo que Def. in son plea (d) ne monstre al court les lettres patents le Roigne Eliz. fait al Conard Prowse, le quel le court prist deff matiere de (e) substance & queux le Def. doist aver monstre avant, comment q si in q droit il justifie n'avoit forsq parcel del estate: sur q le Brel de Error fuit port in Litchquer Chamber, & la 2 errors fuit made, l'un, q fuit assigne per le Def. p son cause del demure, entesteavoir, q le dit plea amount al general issue, p q le Defendant na dona al Plaintiff ascun

(a) 1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

1 Bullstr. 154.

Cr. Jac. 317.

e nempe de substance, e p e p legislature de (*) 17 Regine El.

(c) Br. jurisdiction
41. First jurisdiction
on 7. Br. colour 14
Apr 91 27

[illegible]

les garbes, & nous repysomus, & la semble al Portescue & Newton q le colour ne fust bone, Et 2 H.4. f. 3. a. le (a) Al. car de Saltash port Bf de Trespas des biens imports in S. Le Def. alledge q le Dean de Windsor fust parson de S. & si come servant pui ceur biens come biens son maistr, & le Pl' voill ad prise les biens de luy, & il ne voill luy pas suifer, & eule p le court nul plea, p t q le Def. ne conust nul possession in le Pl' ne property in luy al aucun temps des dits biens, (b) 34 H. 5. 10. b. Labbot de Saint Mary de Everwich sue Bf de Tris vs John Parson del Elglise de D. de 30 l. a D. in le County de Everwich prise : Le Def. dit q il y ad un Chappel de nre Dame in le City de Everwich deins le Parish le Def. en le Chappel de q est un image de nostre Dame, a q le Peuple use de offer oie & argent, & q les dits 30 l. fueront offer illoqs, q il pui come bien a luy list, & done colour al Pl', cestascavoit, q il delibera l'argent al Plaintiff, & le Def. pui t hors de son poss. Et. Et in 39 H.6. 1. b. & 2. a. In (c) Tris le Pl' count de 2 chivals a toyt prise; le Def. dit q le Seignior de Latimer est Seignior del Barony de Godfroy, le q est un ancien Barony & ad est de temps dont memoie ne curt, &c. deins q il & tous les ancestors, & tous ceur q estate il ad in le Barony, ont ete waif, & strap de temps, &c. & dit ouster q les dits chivals fust embles & amenes deins le Barony ou, &c. & la les chivals waifs, p q le Def. come servant al dit Seignior & per son commandement seist, & le Pl' eur pui, & le Def. eur repist : Et exception fust prise a cest plea, pur t q le Def. ne done al Pl' aucun colour, car coist q ils fust waifs hors de son franchise & le Def. eur seist, le Pl' n'ad colour de eur fnder, p q le Def. dit q le Pl' supposant q le property fust in luy debant lembler pui, mes p tota curia q le pte ne vaul sans dire in fait q le property fust a luy, p q il plead accord. Et multis auts cases fust mise a cest purpose, q seo de purpose omitte. Vide (d) 22 E. 4. 23. b. Encounter q fust argue p le conseil del auter party, q in cest case ne besoigne a doner colour pur 2 causes, 1. Pur t q le Defendant justifie come servant, 2. Pur t q le commencement del barre est obe les letters patents le roigne. Quant al pimer, (e) 18 E. 4. f. 3. a. fust cite, ou in Tris de Close depute & 30 Charrets de frument prise & im port,

(a) Apres 91. a. Fitz. colour 41. Br. trespas 70.

(b) Apres 91. a. 34 H.6. 10. b. Fitz. replication 19. Br. property 7. Br. colour 5.

(c) Apres 91. a. Br. colour 37. Doctin. placit. 79.

(d) Br. colour 62. Br. property 35. Br. jurisdiction 79.

(e) Apres 89. b. Br. colour 54. Br. travers 254. Doctin. placit. 76. Cr. El. 76.

port, le Defendant plead q un Bre E. 3. fut scelle d'un
carré de fer dont le lieu, &c. in son demourne come de sa,
& embles q le Bre oit tement, & le Defendant come son
serment & p son commandement enter in in le Bre & scia le
crime & sur par son luy come bien a luy m; & fut mobe
q le barre est insulficient, par t q le Defendant ne dona au-
cun colour, & fut tenu p tous les Justices q il ne donnera
colour al Plaintiff in t case, par t q in tous causes son
homs justifie come (a) serbant a un aut & p son command-
ment, il ne donnera al Plaintiff aucun colour. Quant al a
tous fois le colour doit est done p cesty q est (b) primer
in le condelance, ou querist tout t devant est warde; & obe
t accord (c) 10 H. 7. 14 B. 15 E. 4. 32. a. (d) 18 E. 4. 10. a. 8c
(e) 22 E. 4. 25. a. & in t case le Roign Eliz. en le primer luy
condelance p les leys patens, & le Def. ne poet suppose
q le 13r clame p colour de sonne leys patens, car don-
ques t donnera al Plaintiff bon titre, come in 13 H. 6. tit.
Colour 54. in Tris de Close dequise, le Def. dit q un p. luy
infess, & le Plaintiff enclainant (f) p colour d'un lease fait
a luy a tme dans devant le seodine ou riens passa ent, &c.
& la Fitzh. semble q tuel pieu n'est bone, car si tuel lease fut
il passa maintenant, & quant il plead q le Plaintiff enclai-
mant p colour d'un lease pur ans ou riens passa, t est re-
pugnant in luy m, car quant il dit p colour d'un lease,
cest parol lease luy luy lease in luy, car autrement n'est pas
lease, come in Adm. (g) n'est pieu a dire, q un p. luy in-
fess, & le Plaintiff enclainant p colour d'un seodine ou
riens passa ent, car le ley entend q il n'est seodine sans li-
very, & par t il est (h) use de pleaver q le Plaintiff enclai-
mant p colour d'un lease ne seodine ou riens passa, & car p
le fait sans luy riens in luy passa: Mais si le Defendant
dura in le case al barre, le Plaintiff clain eint p colour de
seodine grant le dit roign p les leys patens, &c. t simpli
loyal grant, &c. Mes ambideux leur cases doit vider
p les Justices. Car quant al pleid, doit est quant le De-
fendant in Tris, &c. plead q le (i) franktenesse est a J. S.
& q il p son commandement ent, ou q J. S. est scelle de
son demourne come de sa q est tout an (come le luy est in
(k) 18 E. 4.) & q le Defendant come serbant a luy & par son
commandement enter, la il ne delaigne a donner aucun colour
par t q ne nient obstant que le luy ou franchement soit
al un, mcoy le Plaintiff poet aber lease pur ans, &c. & obe
ce

(a) Doctrin. placit.
76. Cr. El. 76. Cr.
Jac. 229.

(b) Apres 91. b.

(c) Br. colour 84.
Apres 91. b.

(d) Br. colour 55.
Br. title 52. Br. tra-
vers 354.

(e) Br. colour 63.

(f) Doctrin. placit.
73, 326.

(g) Doctrin. placit.
73, 293. Rast. Ent.
59. b. 173. a. Doct. &
Stud. 159. a.

(h) Doctrin. placit.
73, 293.

(i) Cr. Jac. 229. Cr.
El. 76. Doctrin. pla-
cit. 76.

(k) 18 E. 4. De-
vant 89. a. Br. co-
lour 54. Br. tra-
vers 354. Cr. El. 76.
Doctrin. placit. 76.

tro moens de H. 6. yoz. ou par un especial title est fait, come
in 2 R. 2. p. 2. John de Baco par Tresor de son chesc deliquit
des un John Dingle & son Dingle, les Defendants nient q
un Thomas de Baco soit son frere & enfant J. B. & R. S
sur ceo font dire John de Baco & son Dingle, & se dit John
Dingle de son poir de sa vie & se dit R. S. come servant a lui,
& donc colour et P. q. le dit Thomas de Baco & R. H. 7.
19. ab Robert Redvers par brief de fortable entre sur lessof
de 8 H. 6. entre J. B. qui placitavit quod Johannes Hoke &
& Henricus de wood fuerint fratres, &c. & fecerunt fines &
Sackville in feodo, & le Dec. ut serviens, &c. & dedit colour
propt. oporiet, & teneat le socc; car quant le Dec. fait
special title a cely in que words il pousse come seruant, la ne
sera intenté que le P. ab aucun interest in la terre, & il soit
diversity. Quant il a tencion le Dec. colour avec colour
per lesquel letters patentes, collatibon, colour quardam
literarum potentium sicut predicti le P. de tementis pre-
dictis ante, &c. pro termino, &c. ubi nihil transivit, & ne
vira q. le P. enclament colour concessions sive dimissionis,
&c. nris colour literarum potentium, &c. & si le colour sera
done in quel case appert in 7 H. 7. 144. ou in si le case colour
soit bon.

Ques soit exclusif qm le case al barre colour ne doet
 estre none al **PR**. Et le reason q colour fetra due in **BE** Dentry
 sur Diffein, **BE** Dentry in nature Duffie, Affise, Trespas, Boc.
 est q in ley (que presere & sauue certainz come le inter de
 quiet & repose) al intent que on se court adjudgera sur t si
 le **PR** demore, ou q certain issue soit estre prise sur un cer-
 tain point, scilicet q le **Def.** qnt il pleut tel special plea que
 t autre chose le **PR** peut aduocier, le **Def.** voira colour al
PR, au fine que son plea ne encountera al general issue, &
 issint a loucher tout le matter a l'argu aux iurors, q serf pleine
 de multiplicite & perplexite de matter. Et conit q le colour
 ne soit q defen, aunque les single ubi subsistit quitas: Vide
 Doctor de stud. cap. 53. f. 160. b. **Q**ues soit lespécial matter
 del plea, nient obstant q le **PR** aroit trois debant tout ou
 seement barre luy de son uoit, in tel case le **Def.** ne be-
 soigne a donner aucun colour, p q que si barre le **PR** de son
 uoit il afeut il aroit, in si case fetra in latin a **Def.** al **PR**
 colour ou il appert sur le matter del plea, q il n'aboit nient:
 Car p q in tout action, come Affise, **BE** Dentry in nature
 Duffie, Boc. & collateral pnt soit pleud, & le **Def.** esse sur t

Doctrin. placit. 76.
Cr. El. 76. Br. co-
leur 26.

Bt. forcible entre
14-8 H6-Bap.9.

DoSwim photo 77

Doctrin. placit. 77.
Cr. Car. 169. Dyer
366. pl. 35.

Doctrin. placit. 77.

OL

(a) Après 97. b.

(e) Fitz. colour 28
Br. estray 6 Br. for
feiture de bien
62 Br. travers 24
Do Brin. placit. 77

(f) Doctrine placed
77.Raft.Ent.675.

(g) 12 E. 4. 5. 6
supra.

(h) Br. colour 59.
(i) Devant 88. b.
11 Co. 10. a. Br.
travers 67. Br.co
lour 59. Doctrin
placit. 78.
(k) Fitz. colour 37.
Br. colour 31.

[illegible]

Aurp quant le Defendant intitule luy (a) per le Plaintiff in, nul colour sera done, 13 H. 7. 6. (b) 6 H. 7. 14. b. Aurp quant home plead al luy ou al action del luy, nul colour sera done, (c) 21 E. 4. 4. Et pue le case des distmes q est le case al barr, cestuy q justifie pue eue ne donea colour, car a quecunq le proper ty est, q quecunq que seuer eue del 9 parts, eue appent al parson. Et obe ceo accord 12 E. 4. 12. (d) 21 E. 4. 18. b. & 65. 2. (e) Et quant aux dists cases queux ont este mise del contrarie part, 1. in le case de (f) 21 E. 4. 6. ou colour fust done in case de distmes, Brian chief Justice la teigne, q ne fust de necessity desire done, car tuel plea fust bone sans colour : & quant al case de (g) 21 H. 6. 30. a. la colour fust done, mes p nul rule de court : & l'opinion in (h) 19 H. 6. nest al contrary, entant que il impied a doner colour, si aucun fust necessary, tuel colour q il done ne fust bone. Le case de (i) 2 H. 4. nest d'aucun distmes mes d'anters biens, q p t nest desire resemble a cest case : In le case de (k) 34 H. 6. 10. b. ne besoignes aucun colour desire done : mes in Moyle vers le fine del case dit, si aucun pnt mes biens ou d'anters, q offer eue a un image, in t case seoit bon vers luy come des biens (l) vendus & colle in fait ou market, in quel case nul colour sera done : Et quant al case de (m) 39 H. 6. 1. b. & 2. a. le case de (n) waif, quant le Defendant alleadge que le property fust al Plaintiff, et fust refuse q nul colour sera done : & appert devant p (o) 12 E. 4. 3. b. & les autres loies q nul colour sera done in case ou le Def. alleadge q les biens embt q walbe fust bona ejusdam hominis ignoti : & in le fine del case de (p) 39 H. 6. 2. a. le Re- porter dit, Quere si besoigne in cest case a doner colour al Plaintiff p t q p cest plea le property des chevatz nest debit desire al Plaintiff devant le iuror, & donques semble le plea bone sans colour : & in le Reporter ouster dit, Vide tuel matter in Repl An. 5 E. 3. ou si ne bone aucun colour ou si avowe p weck de mere, & le case q il entend in Hill. (q) 5 E. 3. 63. a. Telle- am de Remport de Londres port Repl vers Sir Henry de Nevil, chivalier, & femme de pisei de ses chateux a la balue, &c. cessallavoit, 10 lasses des Peerings in la ville de Mal- ring. Le Defendant plead, q les lasses de Peerings fust jectz p temps de la mere, boys de chescun parz sur nostre terre in Malring ou le Plaintiff av count, & le Def. av franchise de weck per tout le ville come appendant a nostre manor de Malring, & ainsi nre proper chartel, judgment q a tui bte debes este donne : & in cest case deux poines fueront resolve,

(a) Doct. Pla. 78.
(b) Br. Trespass. 280.
(c) Br. colour 77.
(d) Br. colour 56.
(e) Doct. plac. 76.
(f) Plowd. 281. a.
(g) Perk. Sect. 63.

(d) Br. colour 57.

(e) 10 Co. 88. b.

11 Co. 10. a. Br.

colour 59. Doct.

plac. 78.

(f) 21 E. 4. 65. a.

supra.

(g) Devant 88. b.

Br. Trespass. 48.

Br. colour 20. Br.

Emblements. 9.

(h) 19 H. 6. 20. a. b.

Devant 88. b. Fitz.

colour 7. Bro. co-

lour 14. 1. 1. 1.

(i) Devant 89. 2.

2 Hen. 4. 5. 2.

Fitz. colour 41.

Br. Trespass. 70.

(k) Devant 89. 2.

Fitz. Replication

19. Br. Property 7.

Br. colour 5.

(l) Cro. El. 485.

(m) Devant 89. 2.

Br. colour 37.

Doct. plac. 79.

(n) Cro. El. 174.

(o) Devant 90. b.

Fitz. colour 28.

Br. Elfray 6. Br.

Forfeiture de bi-

ens 61. Doct. plac.

77.

(p) Supra.

(q) Fitz. Reple-

vin 41.

19. 563. (1)

1. 1. 1. 1.

- (a) Co. Lit. 303.b. 1. Que encontre (a) special matt le Plaint ne suit receue a simple averment sans rcher et cause, 2. Rht obliant que le Def. ne connoist que le (b) property fut al Plaint al ncti tps, uncore le pte fut bone, car qnt chateurs sont foudres in la mere, toutes sont les boys de chescun gard e possession, toutes le chateurs ont q tresors sont jers nadi my a conuiter a q les biens fut, e p le rule del Court fut chate a rcher, p que il ut q le Def. pnt les chateurs pars de pars des Berchans e Berchers, pnt, e le Def. fut chate a pender issue sur ceo per le court: In que est deite obliant, que si le Def. au generalit plain property, il nira non solement q le property fut a luy, mais oultre, e nemp al pte, ou autrement il ne respond (c) al count: mes in le Case al hertur ceo que le matter del pte hert le Pl. de son matt, il ne behoigne a deite le property del Pl. Nota Lencur, chescun colour cobient habet 4 qualites, (d) 1. cobient estre un doubt aux lois grans, (e) 19 H. 6. 21. a. 11 H. 4. 3. a. 19 E. 4. 3. b. 23 H. 6. 34. 10 H. 6. 8. 36 H. 6. 2a. Trin 262. 30 H. 6. 7. b. 30 H. 6. 27. Come ou le Def. ut q le Pl. encontre colour (f) dan fait ne frachit, ceo est bone, car est nect aux lois grs il tnt pnt p fait laide sans luy, e nemp, (g) 2. Que colour eie un colour doit estre continuance count q il fait estre, come si le Def. done colour per colour dan fait dan deite al Pl. par tte ne 1. E. q nect le tte fait moit, e nect colour colour, car il ne continue mes le Def. fait pnt deite le tte ne 1. q il clain per colour dan fait dan deite a luy par son de ou cims pnt, e luynt deite in le continuance del colour, e luynt de ceo. a Edw. 4. 29. b. 19 H. 6. 21. a. 9 H. 4. 3. a. 8 H. 6. 9. a. 14. a. 38 H. 6. 67. 9 E. 4. 17. b. Vide 19 E. 4. 3. b. 7 H. 7. 13. b. & 14. a.
- (h) Doct. pl. 71. (b) 3. Colour eie tel colour q il fait deite maintenir le nature de colour, come in Rht a donner luy colour de franchise, e nemp de garden in chivalrie, a All. pl. 6. 28 All. pl. 28. 43 E. 3. 10. All. 73. 33 H. 6. 6. a. b. ne a son successi ou lacion al de son possession deite. (i) 4. Colour cobient estre bone par le pnter confidence come ad est dit, ou auterit tout le confidence deite est bone, 10 H. 7. 14. b. 15 E. 4. 32. a. 18 E. 4. 10. a. & 22 E. 4. 23. a. Long 3 E. 4. 134. a. 31 H. 5. 32. b.
- Quant a luynt argue q fait collige, les dits deux points furent argue, 1. Si les Lettres Patentes doivent estre monstres per le Defendant que justice come servant a luy que nadi soit que par del del ofice de cely a que les Lettres Patentes furent faict: 2. Suppntant que il doit monstre sur si le omission

omission de cest clausse (cuius hic prolata) soit matter de substance ou matter de form, car si soit foyss matter de form, doncques instant q le Plaintiff nait mise ceo particularment & expressement pur son cause de demurer, il ne prendra advantage de t p le dit statute de (a) 27 Eliz. c. 5. Et qnt al pntm (b) *Avstina Case* & 2 P. & M. Dyer 115. fuit cite, ou in informac de intrusi- on in le Manor de Cantarleigh in Kent, le Def. plead Lfes Patents le Roy H. 8. al Sir Thomas Ullat in cas, & q Sir Thomas lessa a luy pur xxvi. ans sans monstre avant al court les Lfes Patents, & le Sir Dyer in reportant le Case dit Nota hoc; & t estoit come fuit dit sur grand reason, car le lessor avant foyss parcel del estate, les Lfes Patents ne appent a luy mes a son lessor, & ove t accorde 29 lib. Ass. p. 2. (c) *John Eatbreads Case*, & le reason la rend est, p t q le Patent ne demurr ove cest q nait q parcel del estate: & in 28 H. 8. Dyer 29. b. in (d) *Trempas le Def.* dit q le lieu ou fuit t Acres de terre, dont le Roy fuit lessie in fee in droit de son corone, & per les Letters Patents granta la terre a le Dame de Ca- rreth pur term de vie, le quel lessa al Def. pur ans & aver t le vie del pntm lessor, & instant justifie, & fuit move si le plea soit bone sans monstrans des pntm Letters Patents, & (e) tnt p Brown, Willowby & Baldwin, q il ne terra chaise a monstre eur avant, pur ceo que les Letters Patents ne appent a luy, nient puis q (f) *Subcollector*, (g) *Southwiscout*, ou Incum- bent, pur t que il nout aucun means a faire leur grantors ou masters de monstre eur: & per eur la est diversity quant le Patent granta ouster leur son interest, la le Patent ap- pent a luy, pur ceo si monstre eur avant, mes quant il grant foyss parcel auferment est: & ove le Case del (h) *Incumbent* accorde 31 E. 3. tit. Monstrans des faits pl. 177. & 31 (i) H. 6. 14. b. & le Case de *Southcollector* & *Southwiscout* 22 H. 6. 42. a. & 21 H. 6. 14. b. 12 E. 3. titulo (k) *Monstrans des faits* 65. *Southtar* justifie le pntm des biens sans monstre le commission, mes si (l) *Home justifie* l'impulsion del corps de home per gart & cobient monstre le garrant.

Des faitz resolve, que le lessor pur ans in le Case al barr doit (m) monstre les Letters Patents fait al lessor pur vie, car est un maxime in le ley que cestuy que est partie ou partie in estate ou interest, ou cestuy que justifie in le droit de cestuy que est partie ou partie pleader in fait, coment que cestuy que est partie ne claim foyss parcel del original estate, uncoze il doit mise le original fait al court; & le reason q faitz esteant

(a) Co. Lit. 304. b. Devant 88. b.

(b) Apres f. 94. a. Dyer 115. pl. 65, 66

7 Co. 8. b. Plowd. 560. b. Co. Lit.

46. a. Moor 362. Hob. 324. 2 Rol. Rep. 491. Bridg.

27.

(c) Apres 94. a. 29 All. pl. 21.

Br. Aid de Roy. 80. Br. Monstrans

de faits 163.

(d) 1 Bullstr. 154. 6 Co. 38. b. Palm.

87. Apres 94. a.

(e) Apres 94. a.

(f) 22 H. 6. 42. a. Fitz. Monstrans de

faits 86. Plowd. 148. b.

Br. Monstrans de

faits 58.

(g) Cro. El. 67.

Cro. Jac. 372.

1 Rol. Rep. 221.

327.

(h) Plowd. 148. b.

(i) Fitz. Monstrans

de faits 92.

(k) Palm. 87.

(l) Cro. Jac. 372.

1 Rol. Rep. 221.

327.

(m) Co. Lit. 225. a.

b. 226. a. 227. b.

317. b. Cro. Car.

209. 441. 442.

Apres 93. b. 94. b.

Cro. Jac. 70. 103.

109. 292. 317. 360.

1 Bullstr. 154. 155.

Plowd. 80. a. 85. a.

148. b. 222. a. Dy-

er 29. pl. 199. 200. a.

5 Co. 75. a. Palm. 87.

1 Rol. Rep. 332.

2 Rol. Rep. 172.

191. Mod. Rep.

266. Doct. pl. 215.

15 E. 4. 16. b.

(a) 6 Co. 38. a
9 Co. 25. a. Hob.
107. Co. Lit. 35. b.
121. b. 225. a. b.

(b) Cro. Car. 399.
Co.Lit.35.b.121.b.
225. a. b.

(c) Lit. Soft. 183 f.
41. a. Soft. 365,
366. Co. Lit. 214.
a. b.
(d) Br. Monstrans
de faits 142.

(c) Apr 93: 2.

(f) Co. Lit. 127.b.
(g) Br. Verdict 39.
(h) Br. Grant 65.
Br. nofm. 36.
(i) Doct. pla. 201,
306.

[illegible]

(a) Doct. pla. 306.

(b) Devant 92. b.

(c) 42 E. 3. 5. b.
Dyer 51. pl. 15.
Co. Lit. 97. b.
152. b. Lit. Seft.
23¹. 13 H. 4. 3. a.
12 R. 2. Fitz. Vou-
cher 81.

(d) 40 Aff. pl. 27.
f. 247.

(e) Fitz. Mon-
strans de faits. 76.
Br. Monstrans de
faits 5.

(f) Lit. Sect. 452.
Co. Lit. 267. b
Lit. f. 107. 2

patent ou soit sans 2 monstres de la (a) tenant plead grant del Seign' ou atournement, il ne monstre ceo sic de simili- bus; mais quant celui qui cede les choses ou aucun droit ou interest doit de ceo, ou p'cedit in droit del grant, la si- miltude monstre le grant grant, comme le 2. genit' del tout charge monstre le grant grant, & ainsi sera son bail- li. & le grant' qui est charge ne p'cedra le recense del districte al baili' sans ces monstres; car comment que il ne claim le terre ne que le recense en fait uncore ceo que ad- cent boys del terre ne doit en la terre que par recense de tout son droit sera certain, & par ceo il doit monstre le fait in- tel cas: & est ceo accorde (b) 20 H. 7. 8. b. & 8 de 14 H. 5. (b) Br. Monstrans de faits 172.

le districte ne plead'ia recense al baili', neque del droit in la terre, neque del cens assint boys del terre, sans ces mon- stre, car ou un cloine le chose a que recense est fait, ou droit ou interest doit de ceo, le ley fait p'cedit in respect del con- estate ou droit in la terre, & est ainsi que il n'advera aduaple del fait sans ces monstres. Quant celui qui plus fort que le cas al bar, car in le cas al bar il claim d'ante & interest in la terre mesme que est demore par les Letters Patentes, & par ceo il doit est monstre. Et quant celui qui ont est une uge al contrary, & p'ntement al (c) Assins Case, nee aucun aduaple in le terre que est fait ou assint ou bail- liage par le Court: & le cas de (d) Barbreed in 29 lib. Ass. p. 2. in le p'cedit, ainsi est fait par ceo, que fait est par boys del districte del meson & ainsi par les des Letters Patentes, par que fait est par ceo, & in le cas in (e) 28 H. 8. la Fuzh. Monstrans & Knightley delmont que les Letters Patentes contiennent est monstre in tel cas, & sic gens contre gentes.

Et quant al 2 point fait objet que ceo ne fait lorsque matter de fait, & le (f) substat' in le grant le Roigne Eliz. par les Letters Patentes, que est demore par le Plaintiff par son demontre: & le cas in (g) 6 H. 7. 2. b. fait objet, ou Choke tient, que si un fait objet de condition a performer les Covenants in certain Indentures, on prend performance sans ces monstres al Court, & le Plaintiff repite & monstre leach, & fait le barre bon, car il dit que ce n'est chose que ne fait material le replication de la barre d'ante, par que fait indere que le monst'ant del Indenture fait chose de fait & n'est de matter. Et un Judgement fait este, Mich.

(a) Dyer 115. pl. 65, 66. 7 Co. 8. b. Plowd. 360. b. Co. Lit. 46. a. Moor 363. Hob. 324. 2 Rol. Rep. 491. Bridg. 27. Devant 92. a. (d) Devant 92. a. 29 Aff. pl. 21. Br. Aid de Roy 80. Br. Monstrans de faits 163. (e) 28 H. 8. Dyer 29. pl. 199, 200. Bullst. 154. 6 Co. 38. b. Palm. 87. (f) Doct. pl. 69. a. (g) 8 Co. 120. b. 7 Co. 25. a.

29 & 30 Eliz. In cest Court in le Maïor & Commonaltee de
(a) Cr. El. 75.117. (2) L'onneur de la Cour de Trerice in le Maïor les Lettres Pa-
tent de Roigne Eliz. ont esté, comme par le Roigne
Eliz. par les Lettres Patentes crues, &c. sous lez (cuf
prolat) par que l'on a esté en jugement, & le plea
(b) Cro. El. 153. 217. 1 Leon. 300.
Cro. Jac. 32. 16.
17 Car. 1. cap. 8.
22.23 Car. 2. cap. 4.
Hob. 233.
(c) Cro. El. 117.
Derris l'oc. 50 & 51. par lequel le 27 Eliz. arceus ont al-
signe, que les Lettres Patentes de l'arceus n'ont esté avant,
& s'ont esté que par cest cause le plea fut insuffisant in sub-
stantie; & a cest cause fut relasche par tous les Justices del
Common Bank & Barons del Eschequer, que Judgement
sera rebelle: & de cest opinion fut in le Case al barz tous
les Justices del Common Bank & les Barons del Eschequer,
& ainsi le Judgement done par les Judges del Bank le
Roy in le Case al barz, fut assise. Observe bien Leneur,
est le Case assise par tous les Justices D'engleterre & Ba-
rons del Eschequer. Mais Leneur, quant aux dix trois
Cases nuls in 25 H. 6. & del (d) garden, de (e) tenant in
Dower, & tenant per le Curtesie, ils sont hors ley: car
quant aux dix Cases de garden & tenant in Dower la est le
verset au ne particulier chose ou interest est gain per la ley,
& au par les del parties: in le Case al barz le interest est gain
per les del parties que pour perdre par les meisme, mes
quant la ley crente l'obste, & le fait n'appert a luy, ne unques
fuit in son poire, comme il ne monstra cro, en le dit
Case del garden in escheque: & est ceo accors 20 Edw. 3.
Darrin presentment 22. 23 E. 3. in. Gard 162. & par ceo le
garden in escheque est hors de Dower par les ley ne pleyn
(f) 9 Co. 10. 2.
Co. Lit. 29. 2. Dy-
er 230. H. 12. Doct.
ph. 151. Perk. Soft.
361. 16 E. 3. 49.
Fitz. Dower 112.
Ver. N. B. 9. b.
(g) Co. Lit. 225. b.
5 Co. 75. 2.
Cro. Car. 209. 447.
Cro. Jac. 317.
(h) Co. Lit. 226. 2.
monstre l'ordonne fut al forme, car c'est si son estat soit create
per

per ley, uncoze le fait attient a luy, & il adolt ceo in son poter,
pur ceo que le fait fuit fait a son seme, & il poet deteiner
ceo durant son vie, Vide 14 H. 3. 4. 5. Nota Lecteur, quant
un plen amouint al (a) general issue, & le plaigniff demur sur
ceo, & le Defendeur ne vout payer le general issue, mais
fournir sur le barre, le Chancery mande au barre par al Chancery
Ley sur general demerit, & apres le vit sur de (b) 27 Elm.
sur tel special cause monstre come fait in le Case al barre.
Et par ceur raisons & diversities vous miseur entendres vo-
stre livres. Et les livres, queux prima facie al ascuns semble
a discorder, sont bien reconcile.

(a) Doft. pla. 116.
Devant 88. b. Cro.
Car. 157. Cro. El.
146, 147, 435, 485.
1 Leon. 178. 1 Sid.
106. Doft. & Stud.
158. b. Co. Lit.
303. b. Hob. 127,
133, 218. Winch.
19. Cro. Jac. 165,
319. Noy 106.
(b) 27 El. cap. 5.
Devant 88. b.

Mich.

Mich. x Jac. Regis.

Edward Seymors Case.

1 Bull. 162. Jeph.
Cent. 51. Cro. Cat.
58. Hard. 414.

Iter William Heybooth gent, Plaintiff in Ejectione firmæ in Bank le Roy, & Samuel Smith Defendant sur demise fait per Edward Seymour Esq 9 Martii Anno 4 Jac. un mes in le Pariss de S. Anne infra præcinctum de Blackpeters in Warda de Faringdon infra London pur iii ans, &c. & le Def. an luy ejet, &c. Le Def. plead rien culp, & sur cest issue special verdict fuit done a cest effect : S. Thomas Chepyn Chevalier fuit seisse del dit Messuage in fee, & 6 Decemb. Anno 1 Eliz. p son volent in scripte devise le dit Messuage al Henry Chepyn son frs (puis seigneur Chepyn) & a les heirs de son Corps, le remainder al John Chepyn & a les heirs Males de son Corps, le remainder al mochein heirs Males del dit Thomas Chepyn & a les heirs Males de leur Corps, le remainder al mochein heirs del dit S. Thomas a tous jours ; & puis le dit S. Thomas Chepyn moult seisse, apres quel mort le dit Henry son frs enter in le dit Messuage & fuit ent seisse en tall oie les remainders ouster in tall, le reversion in fee a luy & a les heirs, & 18 Decembris Anno 22 Eliz. per un Inventure faicte in le Chancery veins vi. mois pur un certain summe d'argent bargain & vende le dit mese al William Pigdam gent & a les heirs, per force de que il ent & fuit ent seisse occupant, & puis le dit Henry Chepyn, s. Octob. Mich. Anno 22 Eliz. leide un fine oie Proclamations del mese abanedit al dit William Pigdam & les heirs oie general

general warrantie n luy e les heires enconter tous gentz :
 William Pigham 19 die Decemb. Anno 23 Eliz. del dit mese
 infess Edward Stanhope au in fee, que 30 Jan. Anno 26 Eliz.
 infessa Henry Seignior Seymour in fee, q ultim. Octob. Anno
 26 El. del dit mese infessa Edward Seignior Seymour in fee,
 e que le dit John Chenp in remainder avoit issue Thomas
 Chenp e mozt : e puis le dit Henry adonques Seignior
 Chenp mozt Anno 29 Eliz. sans issue, e que le dit Thomas
 Chenp fut collu e heit del dit Henry Seignior Chenp, e le dit
 Thomas Chenp 16 Novemb. Anno 31 Eliz. enter in le dit
 mese, enclainant le dit mese per force del dit remainder in le
 dit volunt : e que le dit Edward Seignior Seymour mozt
 ayant issue le dit Edward le lessor del Plaintiff son firs e
 heit, que enter in le dit mese e fut le Lease al Plaintiff come
 in le count est alledege, e que le Defendant come servant le dit
 Thomas Chenp e per son commandement luy esca, &c. Et si
 super tota materia le dit Def. legitime intravit necne, Jurato-
 res predicti ignorant, & perunt inde advisamentu Curie, &c.
 Et cest case fut argue al bar e al Bench in le Bank le Roy :
 e in ces divers points furent resolve per totam curiam. ¶ 1.
 Que p le fait indent de bargain e sale incolle, le bargainer
 avedate (a) discernible a les heirs, determinable sur le mozt
 del tenant en tail, e que si av le reversion en fee etendant sur
 lestate in remainder in tail, e que la femme de tuel bargainer
 terra (b) endowe : Et ote ces accords (c) 24 E. 3. f. 28. b. acc in
 Calyes Case, mes tuel dower seut determinable p le mozt diten
 in tail. ¶ 2. Fut resolve que le fine leide al bargainer ne fait
 discontinuance del remainder del John Chenp, pur ceo que
 ces ne touch ne nuisent son reit, e nul estate de franktene-
 ment passa p la fine leide mes le fine ote les Proclamations
 corroborate le state del bargainer, e p les statutes (e) 4 H. 7.
 c. 24. e 32 H. 8. c. 36. fait son estate plus perdurable, car ou i
 fut (avant regard al Estate tail) determinable sur le mozt del
 tenant en tail, ote n'est determinable tanque tenant in tail
 mozt sans issue, mes si le (f) fine n'est este leide devant le bar-
 gain e vend incolle, ceo n'est discontinuance, come fut re-
 solve in (g) Case, in le part domes Reports, f. mes
 in le case al bar le fine operate sur lestate precedent que passa
 per le bargain e sale, e est guied p le precedent estate, e nul
 conclusion, car poit contred e avoie, come in (h) 6 R. 2. Tre.
 Estoppel 111. ¶ 3. Fut object, que ou per le feodment del
 bargainer le remainder de John Chenp fut (i) displac e mise

215. pl. 53. 224. pl. 28. 254. pl. 104. 256. pl. 9. 270. pl. 21. (f) Cro. Car. 218, 321. 1 And. 27, 113, 285,
 286. 2 And. 161. O. Benlow 13, 14. Hob. 222. Owen 69, 70. Poph. 49. Cro. El. 917. 2 Inst. 671, 672.
 Godb. 218. 1 Leon. 6. 3 Leon. 1, 2. Jenk. Cent. 5, 51. 1 Bulst. 163. 2 Bulst. 34. Moor 337, 338,
 680, 681. 1 Co. 120. b. (g) 4 Co. 91. a. Hynds Case. (h) 1 Bulst. 164. Cr. El. 917. 6 R. 2. Estoppel
 211. 2 Co. 74. b. 78. a. (i) Cro. Car. 156. 9 Co. 106. a. Jenk. Cent. 51.

(a) 1 Sand. 261.
 Cro. Car. 429.
 3 Keb. 499. Cro.
 El. 805. Moor 625.
 Cart. 210. 1 Bulst.
 165. 2 Bulst. 34.
 Jenk. Cent. 51.
 Devant 45.
 (b) Plowd. 557. b.
 Apres 98. a. 1 Bulst.
 165. Cro. Car. 429.
 1 Co. 25. b. 2 Co.
 52. a. 59. b. 70. a.
 77. a. 79. a. 3 Co.
 27. b. 84. a. b.
 4 Co. 23. a. 30. b.
 64. b. 66. a. b. 122. a.
 b. 6 Co. 34. a. 41. a.
 79. a. 7 Co. 37. b.
 8 Co. 27. a. 34. b.
 9 Co. 16. b. 135. b.
 10 Co. 52. a. 13 Co.
 19. 3 Keb. 499.
 Cro. El. 805. Cart.
 210. Co. Lit. 150. a.
 Lit. Rep. 122.
 5 E. 3. Voucher
 249. 10 E. 3. 26.
 Br. Avowry 159.
 (c) 1 Sand. 261.
 Fiez. Dower 98.
 Cart. 210.
 (d) 1 Bulst. 163,
 164, 165. Co. Lit.
 332. b. Cro. Car.
 156. 321. Moor
 28, 220. pl. 359.
 9 Co. 106. a.
 Apres 97. a.
 (e) Co. Lit. 162. a.
 372. a. b. 326. a.
 2 Inst. 519. 3 Inst.
 216. 1 Leon. 77,
 213. 2 Leon. 53,
 157. 3 Leon. 10,
 221, 227. 1 And.
 170. Pap. 108, 114.
 3 Co. 77. b. 78. b.
 79. a. 86. b. 87. a. b.
 88. a. b. 89. a. 90. a.
 89. a. 4 Co. 125. b.
 7 Co. 32. b. 9 Co.
 104. b. 105. a. b.
 Cro. El. 561. Sav.
 85, 88. Palm. 255.
 Goldf. 171, 172.
 Plowd. 360. b.
 371. b. 3 Bulst. 52.
 Dier 72. pl. 133.
 pl. 2. 186. pl. 68.

Edward Seymor's Case. Part X.

- (a) 9 Co. 106. a. a un (a) droit, issint q̄le gar̄t in le fine descend sur John Chey-
ny que nad forsq̄ droit, & pur ceo barrera luy; Fuit unement
(b) Jenk. Cent. 51. resolve per totam Curiam, que cest (b) gar̄t ne barret le veñ
pur divers causes. 1. Pur ceo que chescun gar̄t cobient estre
(c) 1 Bulst. 163, knit & annex a un estate, car chescun gar̄t ad son essence per
166. dependencie sur un estate, & in cest case al temps del fine leby
le gar̄t fuit annex al fee simple determinable sur le mozt del
tenant in tail sans issue, & al reversion in fee, mes ne extend
al estate del John Cheyny in le remainder, car ceo adonques
ne fuit displace ne debest, mes continue in luy: car John
Cheyny al temps del fine levie & apres fuit seisie de son re-
mainder. Donques si le garrantie al temps del creation
de ceo soit annex a un estate, le conusee per son feoffment
ou auter act ne poist extende ceo plus ouster que il fuit al
temps del creation de ceo, & pur ceo quant lestate tail (a
que le garrantie est annex) est determine per le mozt sans is-
sue del tenant in tail, le garrantie, que ad son essence per
(d) Cart. 240. dependencie, est auxy (d) determine, car donques la est nul
estate que supportera ceo: & pur ceo fuit agree, que si home
fait done in tail, & garrant la terre a luy & a ses heirs,
& puis tenant in tail fait feoffment in fee & mozt sans
(e) Co. Lit. 385. a. issue, le feoffee ne (e) rebuttera le donoꝝ in Formedon in
1 Bulst. 166. 3 Co. reverter, pur ceo que lestate a que le garrantie est annex
63. a. Vaugh. 389. est determine: mes est tenu in 7 E. 3. 34 & 35. que si home
fait done in tail & garrant la terre a luy ses heirs & assignes,
& puis tenant in tail fait feoffment in fee & mozt, que
il rebuttera le donoꝝ per force del dit garrantie in Forme-
(f) Co. Lit. 385. a. don in reverter: & cest l'oye est este per Wilbie in (f) 46 E. 3.
1 Bulst. 166. 3 Co. f. 4. b. quel l'oye est bone ley, si ceo soit intend dun done in
63. a. Vaugh. 388. tail fait devant lestatute de Donis conditionalibus, car don-
Br. Formedon 57. ques, le garrantie fuit annex a un estate in fee simple, & le
Plowd. 436. b. donoꝝ nad forsq̄ possibilitie de reverter, que poist estre barre
Fitz. Garrantie 18. p collateral-garranty, Vide (g) 45 Ass. pl. 6. & Plowdens Com-
Statham Garrant- mentaries in le Seignior Barkleis Case, f. 234. a. Mes quant
tie 4. home fait done in tail obe gar̄t puis lestatute, cest gar̄t, in
(g) Co. Lit. 19. b. quecunq̄ manner que ceo soit fait, ne poist extend a barrer
370. b. Plowd. le reversion in fee, car lestate a que le garrant extend est de-
234. a. 553. b. Fitz. termine per le mozt del tenant in tail sans issue, & come ad
Garrantie 68. Br. este dit, feoffment ou auter act fait per le donee subsequent
Assets per dif- cent 31. Br. Tail ne extendra le garrant plus ouster que lestate a que le gar-
34. Br. Prerogative rant al temps del creation de ceo fuit annex. 2. Est un mar-
52. Br. Serch pur im in ley, que nul (b) garrant extend a barc aucun estate de
le Roy 5. Br. Gar- frank.
ranty 52.
- (g) Co. 106. a. Co. Lit. 337. b.

(a) frankteneit ou inheritance que est in Esse in possession, reversion ou remainder (& nemy displace & mise a un droit) devant ou al tēps del garrantie fait, comēt que apres & al temps del discent del garrantie, lestate de frankteneit ou inheritance soit displace & debest: p̄ t̄ si pier & firs soit, & le (b) firs ad rent service, rent charge ou rent seche, ou common de pascours issuant hors de certain terre, & le pier releafe al tenant del terre obe garrantie & moyst, ceo ne barrera le firs, car de le rent ou common le firs suit (c) actualit sessie al tēps del garrantie fait, & cestuy q̄ est in possession ne besoigne a mitter eins claimer ou dabbider fine ou collateral garrantie; & en th̄ le case comēt q̄ le firs apres le garrantie fait suit (d) dissesie del rent ou common, & puis le pier mort, t̄ ne barrera luy, p̄ t̄ q̄ le garrantie al tēps del creation de ceo, ne extend al aucun estate de frankteneit ou inheritance in Esse al temps del creation de ceo, mes si le firs soit dissesie del rent ou common & affirme luy deff̄ dissesie per le (e) porter d'un Assise, & puis le pier releafe obe garrantie & moyst, la le collateral garrantie barrera le firs de son rent ou common, p̄ t̄ q̄ il navoit forsq̄ nude droit al temps del garrantie fait. Vide (f) 31 Aff. pl. 38. 22 Aff. pl. 36. 41 Aff. pl. 6. 33 E. 3. tit. Garrantie 74. Ilint si (g) mon collateral auncesor releas a mon tenant pur vie & moyst, ceo ne liera moy, pur ceo que le reversion continue in ma person: Mes si mon tenant pur (h) vie soit dissesie, & mon auncesor releafe al dissesior obe garrantie & moyst, ceo liera moy, pur ceo que cibles lestate del tenant pur vie, come mon reversion suit debest hors del moy al temps del garrantie fait & obe ceo accord (i) 43 E. 3. 21. b. & 21 H. 7. 11. a.

¶ 4. Fuit clerelement resolve que un garrantie ne poet (k) enlarge un estate, 22 H. 6. 13. b. 19 H. 6. 73. b. 20 H. 6. 73. 2 H. 4. 13. a. 43 E. 3. 17. b. 43 Aff. pl. 42. Vide 12 Aff. pl. 17. 12 E. 3. Tail 3. 22 E. 4. 16. b. 44 E. 3. 10. b. 44 Aff. Bassingborns Assise.

¶ 5. Fuit resolve, que le feoffment del conusee ne fuit discontinuance del remainder de John Cheyny, ilint q̄ son entrie terra tolle, car nul poet discontinuer le remainder ou reversion mes cestuy solement a que le terre fuit intail: & pur ceo si tenant in tail grant totum statum suum al un, & il fait feoffment in fee, ceo ne tollera lentre de cestuy in le remainder ou reversion.

(a) Co. Lit. 327. b. 388. b. 9 Co. 106. a. 1 Anderf. 37, 38.

(b) Co. Lit. 388. b.

(c) Co. Lit. 388. b.

(d) Co. Lit. 388. b.

(e) 1 Co. 140. a.

(f) 31 Aff. 13.

Br. Charge 29.

Br. Estate 34.

Br. Garrantie 50.

Br. Extinguishment 30.

(g) Co. Lit. 388. b.

(h) 1 Co. 67. a.

2 Rol. 740.

(i) Statham Garrantie 3.

(k) Co. Lit. 333. b.

385. b. 12 Aff. 16.

44 Aff. 35. f. 295. b.

Perk. sect. 165, 166.

1 Bullstr. 164, 166.

Statham Garrantie 4. 1 Co. 85. a.

Fitz. Feoffment 8.

Br. Estate 18, 73.

Fitz. Annuity 16.

Br. Garrantie 10.

(l) 1 Bullstr. 163,

164, 165. Moor

28. 220. pl. 359.

Cro. Car. 156, 321.

Co. Lit. 332. b.

Devant 96. a.

Edward Seymor's Case. Part X.

- (a) 1 Bulstr. 165, 167. Co. Lit. 227. a. 283. a. 2 Rol. 690. ¶ 6. Fuit resoluē, que si le (a) collateral garrantyp liera, que ceo bien puit estre done in evidēce & trobe per le Jury, coment que aucun opinions obiter sont de contrary in 22 Ass. pl. 37. & 7 H. 5. 6. a. Vide 34 E. 3. tit.
- (b) 34 E. 3. Fitz. Droit 29. (b) Droit. Car coment que collateral garrantyp (c) ne done un droit, uncoze in ley ceo barē & lie un droit, & pur ceo poet estre done in evidēce, & eo potius, pur ceo que oze in (d) Ejectione firmar, & auters personel actions, ceo ne poet estre plead per voy de barre, 15 E. 4. tit. Entre 42. 20 H. 7. 4. a. 1 H. 7. 12. a. 21 H. 7. 32. a. 3 E. 4. 4. b. 8 E. 4. 19. 21 E. 4. 82. b. 22 E. 4. 4. a. b. 3 H. 6. 27. 36. b. 20 H. 6. 44. a. b. 35 H. 6. Treispas 160. 27 H. 8. 22. b. Et que collateral garrantyp poet estre done in (e) evidēce & trobe per le Jury sur rien culp plead in Ejectione firmar, apptert in le primer part des mes Reports in (f) Chudlieghs Case. Et accordant a ceur resolutions in Trin. 9 Jac. Regis, Judgint fuit done pur le Defendant; sur que le Plaintiff port Briel de Error sur le nobel Statute in Lesechequer Chamber, ou fuit resoluē in mesme cestuy Term p tous les Justices del Common Bank & Barons del Eschequer, que le Judgment done per les Judges del Bank le Roy serra affirm, & que le garrantyp ne liera le remainder del John Chepney pur les reasons & causes devant recite sans aucun grand difficulty.
- (c) 1 Bulstr. 167. Doct. placit. 185. (c) Nota, Lesteur chescun (g) estate descendible al heire, ou est estate de inheritance, ou estate de franktenement; estate de inheritance est ou fee simple, ou fee tail; estate in fee simple ou est estate de inheritance absolute & indeterminable, come ou terres sont dones a un & a ses heirs il ad tiel pure & absolute estate que ne unques poet determine; ou fee simple determinable, & ceo in deux manners, cessascavoir, ou expressement verbe hors dun absolute & pure estate in fee simple; ou implicite & verbe hors dun estate tail; hors dun absolute estate in fee auxy in deux manners, 1. per condition come sur mortgage, & c est appel fee simple conditionel, 2. per limitation, come si A. infeoff B. del Manor de D. a aver & tener a luy & a ses heirs cy long come C. ad heirs de son corps, & ceo est appel fee simple limited & qualified, & en ambideux ceur cases tout lestate in le terre est in le feoffee, & p c sur nul de eux un (h) remainder ou reversion poet estre expectant. Implicite & verbe hors dun estate tail, cōe in le case al barre, qnt tenant in tail bargain & vend le dit mese p fait endent & inrolle al William Pigham & ses heirs, & puis ledy
- (d) Doctrin. placit. 185.
- (e) 1 Bulstr. 167. Doct. placit. 185.
- (f) 1 Co. 120. b.
- (g) Co. Lit. 1. b.
- (h) Co. Lit. 18. a. Palm. 138. Hutt. 60. 2 Leon. 114. 2 Rol. Rep. 216. 220. Vaughan 269. 2 Rol. 791. Plow. 235. a. 239. b. 248. 249. a.

leuy fine a luy & a ses heirs obe proclamation, il ad estate de fee simple, cy. long come le tenant in tail ad heirs de son corps, derive hors del estate in tail, & ceo est un plus inferior & subordinate estate in fee simple que lauters deux avantdits, car sur ceo remainder ou reversion poet estre expectant; & uncoze (a) in tous cez cases cestuy que ad aucun tiel estate de inheritance poet plead que il est seise del terre in son demesne come de fee; sans monstre le commencement de son estate cibien quant il ad fee simple derive hors dun estate tail come fee simple conditionel ou limited: Estate de franktenement discendible, in semblable manner ou est expresse ou imply, expresse, come si home demise terre a un & a ses heirs (b) durant la vie de J. S. ou tenant pur vie grant son estate a (c) un & a ses heirs, in cez cases le lessee ou grantee ad estate de franktenement discendible, mes nul estate de inheritance, car il serra puny (d) pur waste, & cestuy in Reversion ou remainder entra pur forfeiture, & son heir nadera son (e) age, car in manner il nest forsq special occupans, ne il serra in respect de charge come heir in action de Det; implicate come ou in le case al barre tenant in tail bargain & vend la terre al William Pigham & ses heirs, il ad estate discendible & determinable sur le mozt de tenant in tail, & uncoze il ad melieur estate q lauter ad, car il ne serra punie pur waste, ne sil fait feoffment nul entra pur le forfeiture, & la feme serra (g) indow determinable sur le mozt de tenant in tail: & uncoze (h) gardes vous pleaders bien, q in tiel case vous ne commencez vostre plea q le bargainee in tiel case fuit seistus in dominico suo ut de feodo, mes (i) le sure boy est a pleader le special matter, & daverer le vie del tenant in tail.

Et issint vous mieux entendz vostres liures, cestasca. voire, Littleton folio 3. b. capitulo Tail, & capitulo Warranty, 7 Edw. 4. 12. 9 Edw. 4. 26. a. 15 Edw. 4. 8. 2 Hen. 4. 13. 21 Hen. 7. 4. 18 Edw. 3. 12. 13 Hen. 7. 10. 18 Hen. 8. 3. b. 11 Hen. 4. 42. 7 Hen. 4. 46. 8 Hen. 4. 15. 17 Ed. 3. 48. 19 Ed. 3. Account 56. 33 Ass. Pla. 17. 27 Ass. 31. 22 Hen. 6. 33. 39 Ed. 3. 25. 22 Ed. 3. 19. 27 Hen. 8. 29.

(a) Doctrin. placit. 287. Cart. 211.

(b) 1 Co. 140. b. Br. Estates 50. Hob. 323. Plowd. 556. b. 1 Bullstr. 135. B. N. C. 14. 3 Keb. 487. Dyer 253. pl. 99. 100. Co. Lit. 239. a. 110. b. Fitz. Account 56. Cr. Jac. 282. 2 Rol. 66. Moor 726.

(c) Co. Lit. 41. b. (d) Co. Lit. 41. b. 44. b. 54. a. 2 Rol. 826. 6 Co. 37. b. 2 Inst. 301. Plowd. 151. 556. b.

(e) Dyer 321. pl. 22. Co. Lit. 239. a. 1 Anderf. 21.

(f) 1 Bullstr. 165. (g) Devant 96. a. 3 Co. 84. b. Cart. 210.

(h) Cart. 209.

(i) Doctrin. placit. 287.

Edward Seymor's Case. Part X.

21 H. 8. tit. Estates 28. 50. 8 Eliz. Dyer 253. 24 Ed. 3. 28. b. 9 Ed. 4. 19. Plowd. Comment. in Wallinghams Case 555.

Et semble a moy que in le case al barre le remainder de John Cheyny per le feoffment del conusee al Edward Stanhope & ses heirs ne fust displace ne mise a un droit; car le conusee ad fee simple determinable sur le mort de Henry Seignior Cheyny sans issue de son corps, & quant il fait feoffment son determinable fee simple in possession & son absolute fee simple expectant sur lestate tail de John Cheyny in remainder passera, & ne deberra le remainder de John Cheyny, car le feoffment que in luy mesme nest tortious ne poet estre tortious al auter; mes ou tenant pur vie ou tenant in tail sont feoffment, le feoffment in luy mesme est tortious, car tenant pur vie ou in tail ne poet doner fee, & pur ceo le feoffment mesme est tortious, & in case destate tail est tortious quant a ses issues: Des quant cestuy que ad fee simple, comment soit determinable, fait feoffment in fee, il que ad fee simple done fee simple, & per ceo il ne fait tort a ses heirs, & per consequence nul tort a cestuy in le remainder: Aury lestate tail per dit fine est ousterment barre & nobel estate in fee simple create.

(a) Co. Lit. 389. a.
33 E. 3. Garranty
74

Co. Lit. 389. a.

Nota, Aury Lecture sont aucun titles a que (a) garrantie ne extend, come le title in case discharge condition sur mortgage, &c. mortmain, consent al ravishor & semblable, car pur ceur nul action gist in que poet estre boucher ou rebutter, ne discent tollera lentre in tiels cases, & ils continue in tiel plight & possession come ils fueront per leur original creation, & ils per nul ad poient estre displace ou debest hors de leur original essence. Vide 34 Ed. 3. tit. Garranty 72. collateral garranty ne barrera title de Dowry, car ceo continue le essence selonqz le original creation, & uncois pur ceo action est done; & pur ceo est diversity inter collateral garranty & fine leble & cinque ans passe, car

car sur fine lebie & cinque ans passe tous les dits titles (a) Cro. Jac. 333.
sont lie, & le title de (a) dower aury si action ne soit port Devant 49. b. Co.
deins le temps prescribe per lestatute; Vide Plowdens Com- Lit. 326. a. 6 E. 2.
mentaries 373. a. Dower 145. 19 E.
2. Dower 165. Cr.
Car. 201. 9 Co.
140. b. 8 Co. 72. b.

Dyer 72. pl. 3. 224. pl. 28. 2 Co. 93. a. 10 Co. 49. b. 1 Rol. Rep. 160. 3 Inst. 216. Moor 53.
2 Rol. Rep. 69, 409. Goldsb. 148. 3 Leon. 50, 221. Palm. 235.

Mich. x Jac. Regis.

Beawfages Case.

In mesme cestuy terme fuit move al barre in le case dun Beawfage, si le viscount que ad Fieri Facias poet prender obligation del Defendant a paier les deniers in Court al retoyne del Brief; & le doubt que fuit conceibe sur ceo fuit sur les general parols del Act

(a) 23 H. 6. c. 10. de (a) 23 H. 6. cap. 10. Et si aucun des dits viscounts ou autres officers, ou ministers suisdits preign aucun obligation in auter forme per colour de leur offices que ils soit voides, & tiel obligation a paier les deniers in Court, &c. est in auter forme que lestatute prescribe: ¶ Des sur consideration de tous les parts del dit Act fuit resolve, que tiel obligation ne fuit fait voides per le dit Act, & pur ceo cohærentia provisionum Actus prædicti est observanda. Primerment (quant a cest matter) est enact que les viscounts, &c. lesseront hors del prison, tous persons, per eux arrest, ou in leur gard, per force dascun brebe, bill ou garrant, in aucun action personal, ou pur cause dendictant de trespass, sur reasonable surety des suffisents persons ayants suffisent deins le counties ou tiels persons sont issint lesses al baile, a garder leur jours, &c. (except persons in execution prise per Cap. utlagat, Excom cap. surety de peace, per commandment dascun Justice, & vagrants.) Le second clause est q nul viscounts, &c. preigne ou face de prender ou faire aucun obligation pur aucun suisdits, ou colour de leur

(a) 23 H. 6. c. 10. Hardres 121.3 Co. 59.b. Cro. Car. 361. Hob. 13. Cro. El. 66, 76, 178, 190, 199, 200, 271, 800. Dyer 25. pl. 157. 118. pl. 1. 119. pl. 1, 2, 3, 4. 324. pl. 32, 33, 364. pl. 29. Styl. 234. 2 Bullfr. 13, 213. 37 H. 6. 1. a. Fitz. Obligation 4. Br. Obligation 37. Plowd. 62.b. 63.a. 65.a. Raft. Sheriffs 25. 1 Leon. 132. 2 Leon. 78, 107, 118. 3 Leon. 228. 1 Rol. Rep. 40, 169. 2 Rol. Rep. 201. Savil 81. Latch. 23, 54, 55, 143. O. Bendlow 110. 1 Jones 65. Hutt. 70. 3 Inst. 194. 1 Rol. 537. Moor 247. Owen 90. Godb. 136. Goldsb. 54, 66. Cro. Car. 287, 309, 448. 1 Keb. 391. Noy 33, 76, 172, 173. 3 Keb. 191. 1 Anderf. 267. 2 Anderf. 122. 1 Sand. 161, 162. Poph. 165. Heil. 25, 175. F. N. B. 251. b.

office,

office, sinon (a) tantsoient a eux m, dascun pson, ne p ascun pson, q soit in leur gard p course de la ley, forsq sur le nosme de leur office sur condit escrie q les dits prisoners appergerot a le jour conteine in les dits breves, bills ou garrants & in tiels lieux ou les breves, billes, ou garrants, require. (Donqs vient le dit clause.) Et si ascun des viscounts, &c. preignt ascun obligat in auter forin p colour de leur offices, q t serf void. Issint q le primer branch containe clause de precept & comandmt aux viscounts q ils lesserot prisoners al baile q fuera arrest in psonal actiōs, &c. le ql viscount ne poet faire devant cē Act, cōe appiert p (b) 22 H.6. 46.a.b. 19 H.6. 43.a. 21 E.4.77.b. F.N.B.251. a. & b. Le 2 branch containe le forin del obligat p q il serra lesse al baile : Le 3 le penalty si le visc ne observe le forme prescribe p lestat : issint q sur le coherence & dependancy des brāches les darreine pōs comt q ils sont general extendra soient al branch precedent, s. des obligations pise de ceux q sont in leur gard. Et accor- dant a cē resolution ad estt adjudge in cest court Tr. 34 El. 1656. in Det p Dawson viscount de B. vs Burman sur ob- ligation, le Def. plead lestat de 23 H. 6. & mfe q un R. re- cover det & damages vs luy, & pursue un Writ de Fieri facias en vs luy direct al viscount de B. & q il fist le obligat al JP p l'exécution, & q le obligation fuit void p le dit Act, sur q le JP demurre : & fuit resolve, primermt, q le dit (c) obligat ne fuit deins le dit statute, p q lestatute extend soient a ti- els obligations q ascū q est in son gard fait a luy ; 2. Que le obligation ne fuit void p le common ley ; sur q le JP avoit Judgment. Et autiel Judgment fuit done in cest court auxy Mich. 28 & 29 Eliz. Rot. 1502. inter Burwey & Ket, sur ob- ligation pise p viscount p solutione pecuniæ debitæ Dominæ Regiæ sur extract hoys del Eschequer. Nota, Leteur, ou est dit in le darreine clause del Act, q si at des viscounts ou auxy officers ou ministres suisdits preigne at obligation in auter forme per colour de leur offices, q il soit void, est ascavoire q la sont si manners des formes, s. forma verbalis, & forma legalis ; forma verbalis estoit sur les letters & syllables del Act, forma legalis est forma essentialis, & estoit sur le substāce del chose destt fait, & sur le sens del stat, quia Notitia ramorum hujus statuti non in sermonū foliis ; sed in rationis radice posita est : Et (d) accord a cē diffinatio ad cē brāch de cē act este ex- pōit ; & p t in 37 H.6. 1.a.b. si le (e) visc pnt simple obligat dū in son gard q fuit baillable, t est void, car t obligation fault essential

(a) Plowd. 68. b.

(b) F.N.B. 251. b.
Br. Mainprise 37.
Plowd. 67. a.

(c) Anderf. 267.

(d) Cr. Jac. 286.

(e) Plowd. 64. a.
67.b. Br.Der. 115.
Dyer 119. pl. 8.
Br. Obligation 37.
Fitz.Obligation 4.
7 E. 4. 5. b.

essential forme prescribe p lestatute, car le condic prescribe la fault, q est part del substance: Jmint la (a) Moile dit, si le viscount ust lesse un a mainprise q est except in le statute, & q nest mainprable, & ust prise simple obligation, q serra void; quod alii Justiciarii concesserant: car p l'exception appert q ne fuit l'entention del statute q ils serra lesse a baile, & jmint le oblig est prise in auter forme q lestatute entend. Et semble a moy q cibles in m le case de 37 H. 6. come in le principal case de Dive & Manningham, Pl. Com. 67. le oblig q ad condic de (b) savor le visc, &c. harmless (qst le viscount encounter le ley lesse un q nē baillable a baile) est encounter ley & void p le comon ley: & obe t accord William Wis-hams Cafe 15 E. l. Regina, Dyer (c) 324. Et in (d) 7 E. 4. un fuit deins le custody del viscount p force dun Capias direct a luy sur un indiciant de trespass, & le partie fist obligation al auter (p le denomination del viscount) sur tiel condition cōe lestat prescribe p le suertie del visc, & la est tenuis, q l'obligation est void, p t q lact prescribe q l'oblig serra fait al visc m, & t est part del essential forme: Jmint si le visc adde al condic q il serra (e) gard sans damage vs le Roy & le JP, &c. q t ferra tout le condic void p le cause avardit: Jmint si le visc ou goaler prist obligat del prisonier obe condic dēe (f) voier prisonier, ou a paier p s (g) manger & boyer: Jmint si le visc adde auter chose al matter prescribe p lestatut, come a paier tant des deniers p un chival, &c. Cest additon fait tout le obligat void, car est prise in auter forme (touchat le substance del matter) q est prescribe p lestatute, Et obe tout d accord Pl. Com. in le dit case inter Dive & Manningham f. 67, 68, 69. Mes in Pasch. 27 Eliz. in Bank le Roy in action de Det port p Sir William Dury jades visc del County de Suff. sur un oblig de xx. l. vs A. B. q demand oper del oblig: p q appert q le Def. fuit soleint lie in t, & del condic, que fuit que un Hooze, quel le dit visc ad arrest p force dun Latitat hors de Bank le Roy, appearet in pson al jour contein in le bte, &c. & plead lestat de 23 H. 6. & q le dit oblig fuit prise in aut forme q le dit act prescribe, &c. sur q le JP demurre in ley: & fuit object q la fueront 3 variances del forme prescribe p lestatute, s. un in le oblig, & 2 in le condition; in le oblig, p t q le JP prist forsq un (h) surety, & lestatute prescribe reasonable surety de sufficient psons (in le plural number) apāt sufficēt deins les Cousties ou tiels psons soit jmint lesse al bail, in quel case doit ēe 2 sureties al meines,

(a) Plowd. 64. a.
37 H. 6. 2. b. Fitz.
Obligation 4.

(b) Yelvert. 197.
2 Bulstr. 213. Hob.
14. Godb. 250.
251. Plowd. 64. b.
67. b. 68. b.
(c) Dyer 324. pl.
32. 33. 2 Keb. 423.
(d) Plowd. 68. a.
66. b. 7 E. 4. 5. b.
Fitz. Det 80. Br.
Non est factum 14
3 Co. 59. b. 5 Co.
119. b. Dyer 120.
pl. 8.

(e) Plowd. 68. b.
(f) 1 Sid. 383.
Larch. 143.

(g) Plowd. 68. a. b.

(h) Cr. Eliz. 672.
808, 852. Noy 40.
Cr. Jac. 286. Cr.
Car. 446.

& ley nest forsqz un surety, & le (a) plural nūber ne poit estre
 satisfie ove le singular, & issint epcounter les pōls del Act, car
 le plusoys & le plus able q̄ les sureties sont, ils voilont plus
 tost causer cestuy q̄ est lesse a baile d'appearer, & p̄ Justice
 pcedera ove plus expedition, & issint encounē l'entēcion del
 statute; Et ove tout ē accord l'opinion de Montague Chief
 Justice del Common Bank in le dit Case de (b) Dive & Man-
 ningham: Aury in le condition, p̄merant, les pōls sont, q̄
 le prisoner appiet in (c) pson, ou les pōls del statute sont
 appietes generalment (sans ceur pōls, in pson) 2. Que il ap-
 pearet al jour, &c. ad respondendum, ou ceur pōls (ad respon-
 dendum) sont plus q̄ le statute p̄scribe, & issint aury p̄ deux
 causes le condit varie del forsqz p̄scribe p̄ lestat, & p̄ cōsequēce
 obligat void, come in les dits cases de (d) 37 H.6.7. 7 E.4.
 & Dive & Mannings Case. Des fuit resolve p̄ Sir Chri-
 stopher Wray, Sir Tho. Gawdy, & tout le Court del Bank
 le Roy, q̄ le dit obligat ne fuit fait void p̄ le dit Act: Car q̄nt
 al p̄m̄, les pōls sur reasonable surety de sufficēt psons, sont
 adde p̄ le surety del viscount & p̄ ē si il voet prender forsqz
 (e) un surety soit il a son p̄s, car il sera amercie si le Def.
 nappiet, & p̄ ē le statute ne fait void le obligat in tiel case; car
 le dit branch q̄ p̄scribe le forme, require q̄ l'obligat sera fait
 al viscount m̄, &c. p̄ nōme de lour office, & q̄ les prisoners
 appiet, in q̄ clause nul mention est fait de les sureties, issint
 q̄ l'entent del Act fuit, q̄ intant q̄ ē fuit al p̄s del viscount, a
 laisser ē a s̄ (f) discretio a p̄nō un ou plusoys p̄ s̄ indemnity, &
 p̄adventure il serē mieux p̄ luy aucun foits a p̄nō un q̄ est suf-
 ficēt q̄ 2 auts; & cornt q̄ les sureties ou surety nount sufficēt
 deins m̄ le county cōe lestat mention, uncoze le obligat fuit as-
 sets bone, car ceur les pōls del Act, q̄nt a cest point, sont
 plus p̄ counsel ou direction del viscount q̄ p̄ p̄cept ou constraint
 a luy, & ē p̄ le safety del viscount, car si le Def. ne poet trover
 2 sufficēt sureties apant sufficēt deins m̄ le county le viscount
 nest tenu de luy laisser al baile; & cest resolution accord obe
 launcient rule, cessascavoit, (g) Quilibet potest renunciare
 juri pro se introduct: Q̄nt aux dits 2 additions al chōstion
 del dit obligat plus q̄ ē in lestat, fuit resolve, q̄ voier ē q̄ la ē
 dōat differēce del forsqz p̄scribe p̄ lestat, mes nul in substance
 & effect, car cēp q̄ issint ē lesse al baill voiet appeare in pson, car
 tant ē implie deins cest pol del Act (appiergerant) & p̄ ē
 al cōmō ley q̄nt al tēf ou Def. fuit comand (h) d'appearer in
 al court, il duisoit devāt lestat ent fait, in tous cases d'as
 appeare

(a) Apres 102. b.
103. a. Plowd. 69. a.

(b) Plowd. 69. a.

(c) Cr. Eliz. 672,
776, 800. Noy 33,
54, 172, 173. Owen
90. Goldsb. 54, 66.
Sav. 81, 2 Leon. 78.

(d) 37 H.6. 1. a. b.
7 E. 4. 5. b. De-
vant 100. a. b.

(e) Cr. El. 624,
672, 808, 852. Cr.
Jac. 286. Cr. Car.
446. Plowd. 69. a.
Noy 40. Devant
100. b.

(f) Cro. El. 624,
808.

(g) Co. Lit. 99. a.
166. a. 2 Inst. 183,
301. 3 Keb. 146.
Cart. 19, 21, 119,
121. Lit. Rep. 41.
Stamf. Cor. 46. b.

(h) 8 Co. 98. b.
Co. Lit. 128. a.
2 Inst. 249. F.N.B.
25. c. Cawley 164.

- (a) F. N. B. 25. c. appeare in proper pson ; & obe t accord, (a) Fitz. N. B. 25. & les liures avāt cite, issint p m le cause nest l'auter addition material, car cestuy q doit appearer, doit appearer ad respondendum, & (b) Parum differunt quæ re concord'. Et est ipso-
 (b) 5 Co. 4. b. 2 Bulstr. 53. forum Legillatorum tanquā viva vox, rebus & non verbis legem imponimus. Vide 21 El, Dyer (c) 364. la le cōdition fust in le conjunctive, appear and answer in le copulative, & unē le obligat bone. Tr. 27 Eliz. in Bank le Roy, inter Danby & Hethcote in Brief de Error sur Jussignit done in le Marchal-
 (c) Dyer 364. pl. 29. Cr. Jac. 286. sea, fust resolve, q si un viscont ou gaoler p ease & enlargeint dascun q est in son gard prist promise de luy sanz harmles, q comt q lestatute ne ple soirs soleint de obligation obe condi-
 (d) Cr. Eliz. 66. tion, unē t est in olwel mischiel : & (d) Wray Chief Justice dit, q lestatute serwa pur pētīt ou riens si pmisses ne serra prise deins lestatute ; & le dit darrein clause est general, s. & si le viscount prist ascun obligat in auter foim q t serra void, deins le equity de ceux poir (ascun obligation) un (e) as-
 (e) 2 Rol. Rep. 201. Noy 76. O. Bendl. 110. Hetl. 175. 2 Bulstr. 213. Yelv. 197. Godb. 250. 251. Cr. El. 178, 190, 200, 230, 271. 1 Leon. 132. Owen 97, 98. 3 Leon. 227, 228. 1 Rol. 16. (f) 3 Inst. 149. sumpsit est prise, car cōe est dit in les ancient Bles, Verba ligant homines, taurarum cornua fures, Cornu bos capitur voce ligatur homo. Quando verba statuti sunt specialia, ratio autē generalis, generaliter statutū est intelligendū : & appiert p le preāble q lestatute fust fait p avoirding de pjury, (f) ex-
 (g) Co. Lit. 368. b. tortion & oppression, trois haut horribile & odious crimes, & pur t pur suppressing de eur, & p advanceint de verity & Justice, le parols del Act averont benigne & favourable inter-
 (h) 3 Inst. 149. pretation ; in hiis enim quæ sunt favorabilia animæ, quamvis sunt damnosa rebus, fiat aliquando extentione statuti. Et le extortion & oppression q sont faits aux prisoners est le plus odious, p t q est sevre in dolentes, & addere afflictionem afflictis : Et hoier est q devant cest statute les viscounts, gaolers, &c. ascun foirs p ease ou enlargeint, & ascun foirs per oppression & dures volle extort de leur prisoners per co-
 (i) 3 Inst. 149. lour de leur office d'ās sommes de argent & auters abasles, & issint p tel pillling & polling ils fueront enrich & les prisoners impoverish, & le proceeding de Justices delay. Et est bien dit in Dive & Manningshams Case, f. 68. a. q (g) extor-
 (j) 3 Inst. 149. tion nest auter que robbery, mes est plus odible q robbery, car robbery est apparant & ad tous d'ās apparance de vice, mes extortio port un visage de verity, & est plus difficile dē-
 (k) 3 Inst. 149. trée ou discernre, & aux t plus tost (h) accōpany obe le dam-
 (l) 3 Inst. 149. nable & damned vice de pjury in le infreind le serement q loffic prist qnt il fust admit a son office, & p t est le plus odious.

Extortio

(a) Extortio est crimen, quando quis colore officii extor-
quet quod non est debitum, vel quod est supra debitum,
vel ante tempus quod est debitum, & ceo est appel crimen
expilationis, & crimen concussionis.

(a) Hurr. 53. Co.
Lit. 368. b.

(b) Winch. 51. Cr.
Car. 361. Palm. 190

Dyer 355. Moor
866. Hob. 106.

1 Leon. 19, 179.

2 Bulstr. 230.

Auxy fuit dit, que le dit assumptit ne lla le prisonier al
Common Ley, pur ceo que le consideration fuit encounter
Ley, Vide 19 Eliz. Dyer (b) Ownleys Case.

Mich.

Mich. x Jac. Reg.

Alfridus Denbawd's Case.

Cr. Jac. 316.
Jenk. Cent. 288.

Alfridus Denbawd alias Burnard port Brief de Error in Leschequer Chamber vers Peter Woodley Hill. 9 Jac. Regis Rot. 1151. in Bank le Roy, & le case fust que Peter Woodley port Trespals vers le dit Alfride & un Tho. D. quare clausum fregit al Aithbarton in le County de Devoñ : Le Defendant plead Non culpable, & al Assises in pais Alfride fuit trobe culpabl & le J^r avoit Judgment vers le dit Alfride, sur quel Alfride port Brief de Error & le Error que fust assigne, fust, pur ceo que un des Juroys del principal pannel appiert solement al Assises, sur que al prier del Plaintiff un pannel des tales de Circumstantibus fust return per le viscount in cest foym : le tittle fust, nomina decem talium, &c. & south ceo il retozne xi Juroys. Et fust argue que cest Judgment fust erroneous p deux causes, 1. Pur ceo q forsq lun del principal pannel solement appiert, & 2 al meins cobient dappearer. 2. Que intant que il intitile le pannel del tales, nomina decem talium, il ne poet retozne xi. Asit al primer, le agard del dit tales doit ee garrant p lestatute de 35 H. 8. c. 6. car al common ley les Justices de Nisi prius ne posent grant ascun tales, & fust object q lagarder del tales in le case al bart ne fust gart p le dit Act, car les polys de t sont, And that the Justices shall and may proceed to the Tryal of every such Issue with those persons that were before impannelled and returned, and with those newly added, &c. Intint q ceux polys those persons esteat in le plural nuber ne poet ee satisfie
ove

F. N. B. 189. h.

obe un (a) singular pson; cōe sur lestat de (b) W. 2. c. 11. cum (a) Dyer 145. pl. dom, &c. dederit eis auditores compoti, &c. si un accout devāt 64. Devant 101. a. Plowd. 393. b. (c) un Audif in Det. p les arerages sur tiel accout il gagef sō (b) 2 Inst. 379, 380. ley, cōe est tenus in 20 H. 6. 41. b. & le reason la rendue est, p t (c) 2 Inst. 380. Co. Lit. 295. a. 20 H. 6. q le stat ple daccout devāt Auditoys, Vid. (d) 5 H. 4. c. 8. 11 H. 4. 16. b. 17. a. Fitz. ley 10. 2 Rōl. 606. 4 H. 6. 25. b. 35. a vide 49 E. 3. 2. b. & 43 E. 3. 1. b. Nota Leteur, nē aīc ad de (d) 5 H. 4. c. 8. parliant q p erps pōis tolle le gaī del ley in aīc de Det sur arerages daccout, mes al cōmon ley le Def. aīa son ley in aīc de Det port sur arerages daccout, soit laccout devant un Audif ou plusoys, cōe appiert in 38 H. 6. f. 6. a. mes le reasō q le Def. ne gagef s ley qnt laccout est fait devant Audi- toys, est sur le stat de W. 2. c. 11. car oze cest stat ad fait les Audif Judges de recozd, p t q ils ont power p t a cōmitt le Def. au pison, le qī nul poet fair sinon q ils sont Judges de (e) recozd, & obe cē reason, s. q ils sont Judges de recozd, ac- (e) 2 Inst. 380. 8 Co. 120. a. (f) 20 H. 6. 41. b. cord (f) 2 H. 6. 41. & 10 H. 6. 24. b. 25. a. & a cē cause il fuit ouste del ley p tous les Justif in tiels cases : mes si accout soit devāt un Audif solemt, t est hoys del statute, car il ne poet cōmitt le Def. au pison, & p t remāin al cōmon ley. Jūint le Sñioz q est trove in surplage, lestat est fait s laccountāt solemt, & le Sñioz ne poet est cōmitt au pison, & p t il auxy remāin al common ley, come est adjudge in 14 H. 6. 24. b. Vide 10 H. 6. 25. a. 38 H. 6. 6. a. 20 H. 6. 41. b. & appiert per le Judgīnt del Intire Parliant in (g) 5 H. 4. cap. 8. que in (g) Dyer 145. pl. 63. Action de Det sur arerages daccout devant (h) Auditoys, (h) Co. Lit. 295. a. 2 Inst. 380. 2 Rōl. 106. q le Def. ne gage son ley, mes la remedy est done per ex- aminat a discerner si le matf gīt in accompt, & si nemy, don- ques dallower le Def. son ley, & p t les liures in (i) 43 E. 3. (i) 43 E. 3. 1. b. & 49 E. 3. sont malemt report. Et ouster ceur de councel obe 49 E. 3. 2. b. Dyer 145. pl. 63. le pī in Bē Derror citont le case in 22 H. 6. 47. b. ou le custom de fozein attachāt esteant alledge s psons in le plural num- ber ne serf satisfie obe un : & le case de redissein, ou lestatuf de Merton c. 3. Dīf, (k) assumptis tecū custodibus Placitorū Co- (k) Plowd. 393. a. 23 Ass. pl. 7. Fitz. redissein 2. Br. re- dissein 3. Rastal redissein 1. (l) 23 Ass. pl. 7. (m) Fitz. forger de faux faits 14. Br. amendments 15. Br. count 22. Br. faits 5. Plow. 84. b. (n) Cr. Jac. 316. 2 Rōl. Rep. 210, 211. Jenk. Cent. 340.

¶ Des fuit resolve, q in case qnt foysq (n) un del pīnci-

pal

pal pannel appiert, lestat done authory au Jusit de Nisi prius bagard tales de circumstantibus; car est p̄vieu p le dit stat, For the more speedy trial of Issues to be tried by 12 Men hereafter to be had, that in every Writ of *Habeas corpora* or *Disfringas* with a *Nisi prius*, where a full Jury shall not appear before the Justices of Assise or *Nisi prius*, or else after an appearance of a full Jury, by challenge of either of the Parties the Jury is like to remain untaken for default of Jurors, that then the same Justices, upon request made by the Party, Plaintiff or Demandant, shall have Authority by force of this Act to command the Sheriff, or other Minister or Ministers to whom the making of the said Return shall appertain to name and appoint as often as need shall require so many of such able Persons of the said County then present, &c. as shall make up a full Jury. Per q̄ur pols, sans q̄stio, com̄t q̄ un soleit appiert le court poet agard tales de 11. Donqs vient le clause q̄ ad est ment̄ devant, q̄ ne restrain pas le generalty des p̄m̄ pols. Et les cases mise debāt q̄ done authory in nature dun commission, come in le case des auditoz del account, (a) Redif-
 seisin, &c. ne sont d̄ee resēble a c̄e case sur le dit act de 35 H. 8. q̄ est fait p̄ plus sp̄dy trials, q̄ tous soits, & tous auts statutes de tiel nature, ser̄ prise benigne & favorablem̄t in furtherance & advancem̄t de expeditio in Justice, & est cy grand mischiel & delay de Justice q̄nt lun soleit come q̄nt 2 ou plusoiz appieront, & a cest cause si le corps del act ust est in le plural number, uncoze t̄ ser̄ construe a extender al case q̄nt un soleit del p̄ncipal pannel appiert: & ove t̄ accord
 lopinio del court del Comō Bank in Mich. 7 & 8 El. (b) Dyer
 245. in m̄ le point, cestascavoir, q̄ les Justices de Assise & Nisi prius ount power bagarder tales quant un Juroz soleit appiert, car la est dit, issint suit l̄entent des sealoys del stat, & la Brown tient, si 2 del p̄ncipal pannel appear, & al p̄xier del p̄ 12 de circumstant̄ sont retorn, & donqs les 2 p̄ncipals soint treit hors p le challenge, oze le trial ser̄ tout p les 12 de circumstant̄: sed le Schioz Dyer fait un Quere de t̄: mes al common ley les Juroz des tales passeront in trial sans ascun Juroz del p̄ncipal pannel, & cest act ad tous soits est expound favorablem̄t: & pur ceo in
 Mich. (c) 16 & 17 Eliz. nul hundredoiz appiert, & tous les hundredoiz fueront retourn sur le tales: & 23 Eliz. Dyer (d) 376. ils ount power a grant tales de circumstantibus direc̄ Coronatoribus, p̄ favour ou affection del vis̄
 per

(a) F.N.B. 189.h.

(b) Dyer 245. pl. 64.

(d) Dyer 338. pl. 42.

(d) Dyer 367. pl. 24.

per les dits general pōis del dit act 35 H. 8. Mich. 35 & 36 Eliz. Julius (a) Cæsar Maister del Court de Requests in le Bank le Roy port action p scandalous pōis d's Philip Cor- fini. Le Def. plead rien culp. & dit q il fust alienigena, &c. & p'ia trial p medietatem linguæ, & fuit grant, & al Nisi prius in Londres forsq 6 Anglots & 5 aliens appief, & le JP p'ia tales de circumstantibus p medietatem linguæ, & fuit grant, issint que fault un alien, & le reco'd fuit, ideo alius alienigena de circumstantibus p Vicecom London ad requisitionem infranominati Julii Cæsaris p mandatum Justic de novo apposit, cujus nomen pannello præd. affilatur secundum formam Statuti in hujusmodi casu nuper editi & p'vifi, Qui quidē Jurator, sic de novo appositus, videlicet, Christianus Dethick alienigena exactus similiter venit, ac in juratam illam simul cum aliis juratoribus præd. prius impanellatis & juratis juratus fuit, & le Jury trobe p le JP, & assesse damages al Cl. Et fuit move in arrest de Judgint, q nul tales est deff grant de circumstantibus qnt le trial est p medietatem linguæ p les Justices de Nisi prius, p le dit act de 35 H. 8. p 3 reasons; 1. Le tales cobient ensuer le nature del principal pannel, & ceo tous soits est ad requisitionem Defendentis, & in cest case le JP p'ia le tales; 2. Que les pōis del dit act sont in le plural nūber the Jury is like to remain untaken for default of Jurors, & icy ne fuit forsq p default del un Juroz; 3. Lac ne done authory in cē case al Justit a grant tales, car in le former pt del act est ple de (c) frankteneht des Juroz, & des issues deff retourn sur les Juroz, & alien naboit frankteneht. ne issues serf retourn sur luy: Aury lestatute dit si soit ascun default des Juroz, auters de m le county serf retourn, &c. & un (d) alien nest properint dit dascun county: & hiis non obstantibus, p c q lestatute fuit fait pur spedy execution de Justice, & serf expound favourablemt de effeater lentence & purpose des sealoys del Act, Judgint fuit done p le JP.

Quant al 2. objection q ad est fait, fuit resolve q le title fuit le misp'ision del Discount, & ne poet estre prise q le Justit grant tales soleint de (e) 10. mes de tants que in tout ferra inquest: & ceo applert, pur ceo q 11 fueront retourn & 11 jure ove cestuy del principal pannel, & p c fuit resolve que cest misp'ision del Discount ferra amende & decem mise hors del title, & donques le title ferra bone & formal, nomina talium, &c. ou poet estre nomina Juratorum de novo apposit secundum formam Statuti.

(a) Poph. 35. Cr. Eliz. 305, 841.

(b) Dyer 144. pl. 59, 60, &c. Dall. 22. pl. 5. 3 Inst. 27. Jenk. Cent. 216. Cr. El. 818, 841. Stamf. Cor. 159. a. b.

(c) Poph. 35, 36. Dyer 144. pl. 59. Cr. El. 841.

(d) Co. Lit. 156. b. Poph. 36. 7 Co. 18. b. Calvins Case.

(e) Cr. Jac. 303.

Alfridus Denbawd's Case. Part X.

Nota Ledeur, al common ley in le granting dun tales 5 choses sont destre consider, 1. Le temps del granting, &c. de ceo : 2. Le number des tales : 3. Le order de eux : 4. Le manner de trial, cessascaboit, ou p eux obe auters, ou p eux solemt : 5. Le qualitie de eux sont destre consider.

- Quant al p^rimer, 4 choses sont destre consider, p^rimermt que le temps del grant de eux est sur (a) default de tants de ceur del p^rincipal pannel que ne poet estre pleine enquest ;
2. Que al temps de granter de eux le p^rincipal array estoit, car tales sont p^rols similitudinary, & dunt reference al resemblance q a cest t^eps doit estre in esse, & p t si array soit quash, ou tous les polles chall^ege & trie hors, nul tales ser^t agard, car a cest temps ne sont quales, mes in tiel case nobel venire fac ser^t agard, mes si al temps del granting des tales le p^rincipal pannel estoit, & puis est (b) quash come est avantdit, uncoze le tales estoit, car sⁱussit si fues quales al temps de granting de eux, & ceo appiert in 34 H. 6. tit. Enquest 30.
3. Est destre observe q cesty q est meremt Defendant ne poit p^rier tales tanq le temps q le (c) Plaintiff ad fait default ;
4. In alcun case tales serra grant apres un plein Jury appiert & soit jure, come si un Jury soit charge, apres & devant verdict done in Court, lun de eux mozt, tales serra agard, & nul nobel venire fac, & obe t accord (d) 12 H. 4. 10. a. Innt si alcun des Juroz impanel mozt devant q ils appiet, & ceo appiert p le retozn del viscount, le pannel nabatera, mes si besoigne soit tales ser^t agard, Vide (e) 20 E. 4. 11. b. Et le temps del challenge & trial del tales, est apres ceo que le p^rincipal pannel soit trie, & si le p^rincipal pannel soit assien (f) mesme les triers triet les tales, mes si soit quash, d^oques les 2 triers del p^rincipal ne triet eux (g) 9 E. 4. 46. b. 14 H. 7. 1. b. & 33 H. 6. 25. Vide 19 H. 6. 48. a. b.
- Quant al 2. cessascaboit, le number, 2 choses sont destre observe, 1. Que in tous cases le tales cobiet est (h) desouth le n^uber del p^rincipal in le Ven fac (sint q il soit in case dappeal) c^oe in (i) Attaint desouth 24. & in auters acti^ons ou le Ven fac e de 12. desouth 12. & le reason p quoy plusors poi^et ee gr^{at} in appeal del pt le Pl est, p t q le Def. poet chall^ege pemp^rtozn, & si default soit in le Pl donqs le Def. poet p^rier tales, & le reason est in favorem vitæ, & q il poet expedite luy & fr^ee luy mesme de veration & question de son vie, p pabour que les testmoignes debiet, &c. & obe ceo accord, 14 H. 7. 7. a. 37 H. 6. 12. a. (k) 18 E. 4. 5. b. 16 E. 4. 6. b. & p t semble

(a) 2 Rol. Rep. 182, 183. Co. Lit. 158. a.

(b) Dyer 78. pl. 41.

(c) Cr. Car. 484.

(d) Stamf. Cor. 155. b.

(e) Stamf. Cor. 155. b.

(f) Co. Lit. 158. a.

(g) Stamf. Cor. 155. b.

(h) Stamf. Cor. 155. a.

(i) 2 Rol. 672.

(k) 18 E. 4. 6. b.

le

le liure in 48 E.3.1. est misprint. Vide 49 E.3.1.b. & 48 E. 3. 28. Le 2. que le number tous foits cobient est certain, come 10 ou 8 ou 6 ou 4, &c. Vide octo tales, Br. 11. Des oze sur le dit act de 35 H.8. tales de circumstantibus poet est grant cibien dun (a) incertain come dun certain number, & (a) Cr.Jac. 316. t p force des parols del dit act, s. so many, &c. as shall make up a full Jury.

Quant al 3. cessalcavoir, le ordie, est ascavoir q tous foits in chescun nobel tales le number serra diminish, come si le primer soit 10, le 2 serra 8, & issint tous foits meins, & obe t accord 14 H.7. f.1.b. Tit.8 tales Br. 15. Vide 47 Ass. pl.10. Des si tales soit agard & puis est quashe p challenge, il poet ad nobel de m le number come devant, & obe t accord 20 H.6.40. a.

Quant al 4. cessalcavoir, al manner de trial, cessalcavoir, p eux obe auters, est common chescun jour; & p eux solement, qnt puis le granting de 10 tales & octo tales le principal pannel est quashe, la le trial poet est solement de tales, ou si le tales ne amount a un enquest, un tales a supplier le former tales poet est grant, & obe t accord (b) 36 H.6. Tit. (b) Stamf. Coron. 155. b. Eng. 30.

Quant al 5. cessalcavoir, al quality des tales, ils doient est de (c) mesme le quality, come les principals sont, & pur t (c) Cr. El. 305. si le primer soit p medietatem linguæ des Anglois & aliens, issint doient est le tales, issint si le principal soit hors dun franchise; & tous ceux choses que sont require per le ley in les principals sont require in les tales, Vide 3 E.4.11. 7 H.6. 40.a. 30 Ass.42. Et puis per advise de tous les Justices del Comon Bank & des Barons del Eschequer, le Judgment fuit affirme: & issint le principal case al barre ad est adjudge p tous les Justices Dengleterre & tous les Barons del Eschequer.

Nota Lector in Assise, si tant de les Recognitozs sont default q la ne sont 12 les Justices (d) Daisse ne poent agarder (d) Cr. Car. 341. tales de circumstantibus; car comt q Justices de Assise sont nosme in le dit act de 35 H. 8. cibien come Justices de Nisi prius, uncoze intant que le dit act ne done power aux Justices Daisse ou Nisi prius, mes ou le trial serra per 12 homes in chescun bief de Habeas corpora ou Distringas obe Nisi prius, & ceo ne poet estre in Assise, car Assise capiantur in proprio Com, & ne unqs poet est prise per Nisi prius in proprio Com, & nul exposition poet est fait encounter

Alfridus Denbawds Case. Part X.

(a) 2 Bulstr. 179.
11 Co. 34. a Hawk.
Max. 424.

ter expres pois, car t terra (a) viperina expositio quæ cor-
roderet ventrem textus ; & de tuel opinion fuit Catlin Chief
Justice in son temps, & Gerard Attorney General, & apres
eux Wray & Anderson Chief Justices, Justices Daffie in
Dorfolk Circuit.

Mich.

Mich. x Jac. Regis.

Humfrey Lofields Case.

Thomas Young & Dorothy la feme port Action de Det vers Thomas Hilton & Anne la feme executrix de Humfrey Lofield, sur obligatiō de 100 l. fait Decemb. anno 6 Jac. Reg. per le dit Humfrey Lofield al dit Dorothy dum sola fuit. Les Defendants demand oyer del obligatiō & conditiō q̄l fuit, That if the within bounden Humfrey Lofield, his Executors, Administrators and Assigns, and every of them, shall well and truly observe, perform and keep all and singular the Covenants, Payments, Reservations, Grants, Articles and Agreements contained in a Pair of Indentures bearing date the day of the date of the Obligation made between the said Humfrey and Dorothy *dum sola fuit*, which on his and their part, &c. & plead q̄ p le dit Indenture, q̄ ils monstre avant, le dit Dorothy, in consideration del rent apres per mesme l'indenture reserve, demisa al dit Humfrey Lofield un Wine cellar in Graveland, a aver & tener al dit Humfrey Lofield ses executors & assigns puis le Feast del Nativity del Christ donqs prochain ensuant, p termino unius anni integri extunc prox. sequentis, Et si in fine dicti unius anni ambæ partes placerent, agrearent, & contentatæ forent, quod eadem præsens dimissio foret renovata, sive continuata pro aliquo longiori tempore, tunc habend' & tenend' dimissa præmissa dicto Humfrido Lofield executoribus & assignatis suis, ab & post dictum festum Nati-

¹ Brownlow 61.
Hob. 276.

Humfrey Lofields Case. Part X.

Nativitatis Domini tunc px. sequen' datū Indētura, usq; plenariū finem & terminū trium annorū extunc pxim' sequentium, Reddendo inde annuatim durante dicto fmino dicta Dorothea executoribus & assignatis suis quadragint' libras ad quatuor usual' dies festos, sive terminos, &c. cessascaboit Annuntiation, &c. obe clause de distress si le rent fuit arere p space de 10 jours puis aucun des feasts, &c. & plead q il occupy le dit celler p le space del dit p̄mier an, & al fine del dit an pforme tous les covenants, payments, reservations, &c. in les dits Indentures, &c. Le J^{or} reply, & p breach monst' que dit Humfrey Lofield ne paya 10 l. due in le dit p̄mier an al feast del Birth de Christ pur un quarter : sur que le Def. demurre in ley. Et cest plea cōmence in Communi Banco, Tr 10 Jac. Reg. Rot. 3434. Et fuit argue p le Serjeants accounsel obe le Def. q le dit lessor ne paiera aff rent p le p̄mier an, & t p 3 causes : 1. Pur t q le reservation, come t est fait, depend sur un contingency, cessascaboit, si au fine del p̄mier an ambideux parties agrēt q le lease serf renew & continue p aucun longer terme, donqs a aver & tener le dit celler al dit Humfrey del feast del Birth de Christ procheine ensuant le date del Indenture p 3 ans, Reddendo inde annuatim durante dicto termino dicta Dorothea, &c. 40 l. &c. issint q le Reddendo depend sur le dit contingent, le q il ne unds p̄ist effect, car le lease ne fuit continue ouster le p̄mier an. 2. Le reservation del rent est durante termino p̄dicto, le q il esteant parle in le singular number relatef soleint al terme de 3 ans darreint mention, & nemy al terme dun an, q fuit certain & compleat devant le contingent. 3. Que chescun (a) reservation & exception serf p̄ise stricte vers le lessor & beneficialint pur le lessor, p t q chescun reservation charge & incumber le terre demise, & les parols del reservation sont les parols del lessor & le reservation est son act, & p t ne serf extend ouster les parols, & issint est tenu in Hill. & Granges Case in Plow. Com. 171. a. & a cest purpose les common cases in 12 E. 3. tit. Assise 86. 17 E. 3. 52. & 17 Ass. pl. 10. 10 E. 4. 18. b. 27 H. 8. 19. a. & divers auts fueront cite. Et fuit dit passer, si (b) 2 tē in cōmon join in un grant de un boefe, ou pair de esperous doze, ou esperber, le grantor aver deux boefes, &c. mes ils sont (c) done in tail ou lease p vie ou ans rend un boefe, &c. a euz & a leur heirs, ils durant leur vies ne leur several heirs apres leur mort averont forsq un boefe, &c. Et issint si home fait done in

(a) 2 Sand. 166, 368. Plow. 171. a.

(b) 5 Co. 7. b. Co. Lit. 196. b. 197. a. 267. b. Plow. 171. a. 140. b. 161. b. Perk. §. 106.
(c) Co. Lit. 197. a. Perk. §. 107.

in tail de 2 acres (a) lun al cōmon ley & lauter in Borough English, rend un boef a luy & ses h̄es, & le donke avant 2 firs mozt, & leigne firs inherite lun acre, & le puisne laut, in cest case le doft ou ses h̄es n'ont forsq un boef, pur ceo que le reservation ser̄ pise stricte vs luy & ses h̄es. Mes fuit resolve, que le dit (b) reservation extendē al p̄mier an, car le proper lieu dun reservation est a venir apres le limitation de tous les estates : & pur ceo, si home per fait indent demise terres al A. Habendum a luy pur vie, le remainder a B. & a ses heirs de son corps, & pur default d̄issue de son corps, a remainder a D. in tail ou pur vie, Reddendo inde al lessor & ses heirs un annuel rent, cest reservation extendē a tous les estates devant. Vide (c) 34 E. 3. tit. Avowry. Et cōst que le future terme soit incertain, uncoze certain est que le lessē avera le Celler pur un an, & le reservation (d) extendē a ceo, car durante termino prædicto, cōst q̄ soit in le singular number, uncoze est nōme collective & a d̄a reference a chescun term demise per le Indenture : & est desre observe, q̄ si le lessē ust tenuis le Celler ouster le dit p̄mier an, q̄ le reservation ad extend sans question al p̄mier an, & le consideration del feafans del lease fuit solemt in consideration del rent reserve in les d̄its Indentures ; & in ancient temps rent reserve sur demises, &c. fuit appel vivus redditus, pur ceo que le lessor (e) vive de ceo ; & Vide Plowd Com. in Hill & Granges Case, 171. tiel construction terra fait in case de reservation del rent, que lessor ne prendra son rent al aucun jour, &c. Et in Hill. (f) 23 Eliz. Rot. 1410. in Communi Banco, Dionise Pafmer port Repl vers Georg Prowse pur p̄isel de ses avers al Halberton in un lieu appel Terleigh Down in le County de Devon, le case come appiert per le Record fuit tiel : lease fuit fait dun mese & terre pur ans si le lessē cy longement v̄vera, & puis le lessor per son fait indent granta le mesuage & terre a un auter, a aver & tener le reversion al grantē pur vie, cum per mortem, sursumrestitutionem, vel forisfacturam del lessē, aut aliter, acciderit, Reddendo inde annuatim al grantor & ses heirs cum reversio prædicta acciderit ix s. iv d. per annum, le lessē mozt le grantor del reversion distrain pur les arrerages del rent cibien devant le mozt del lessē come apres ; & in cest case 4 points fueront resolve clerement per tout le Court, 1. Que per le demise del mesuage & terre pur vie le (g) reversion de ceo passer,

(a) Apres 107. b.

(b) 1 Brownl. 61. Hob. 276.

(c) 34 E. 3. Avowry 258.

(d) 1 Brownl. 61. Hob. 276.

(e) Co. Lit. 143a.

(f) Dyer 376 pl. 27. 1 Vent. 91. 2 Brownlow 300. 2 Sand. 166.

(g) Cro. Car. 400. Co. Lit. 324. b. 5 Co. 124. b. 4 Co. 36. a. Dyer 125. pl. 45. 233. pl. 10. 11. Plowd. 155. a. 159. a. 30 E. 1. Grant 86. 7 E. 4. 20. Fitz. Feoffments 22. Fitz. Grants 97. 6 Co. 56. a. 66. b. 2 Rol. 190. B.N.C. 267. 35 H. 8. Br. Grant 50. Lit. Rep. 18.

Humfrey Lofield's Case. Part X.

- (a) Plowd. 103. b. **passet, mes per grant del (a) reversion terre in possession ne**
 152. a. Lit Rep. **passet. 2. Per le grant del mesuage & terre, Habendum re-**
 18. 5 Co. 124. b. **versionem, &c. p̄ vie puis le mozt del lessé, &c. q̄ le (b) Ha-**
 Cr. Car. 400. Godb. **bendum est bone, car in Judḡmt del ley riens forsq̄ le rever-**
 451. Kelw. 18. b. **sion est grant p̄ les premisses, & come in Throckmortons**
 (b) Moor 55, 56. **Case, Pl. Com. 147. q̄nt reversion est grant, Habendum la**
 Co. Lit. 183. a. **terre, le Habendum est adjudge bone, issint q̄nt le terre est**
 2 Co. 24. a. **grant Habendum le reversion, & puis le mozt del lessé, &c.**
est in construction tant a dire come a prendre effect in posses-
sion puis le mozt, &c. Auzp̄ le Habendum uist est bone, co-
ment nul mention ad estre fait ou del terre ou del reversion
in le Habendum, car le p̄ncipal (c) office del Habendum est a
limiter lessate del terre continus in le premisses. 3. Fuit
resolue que per le dit reservation le rent ne commencera
deuant le reversion escheſ in (d) possession, & ceuz parols
cum reversion pr̄dicta acciderit ser̄t exposéde solongue len-
tention des parties, que ne fuit que granté pur vie
passet le rent reserve deuant que il poet prendre les pro-
fits a rasser le rent de euz. 4. Que le distres fuit bien
prise pur les arerages puis le mozt del lessé, & nemp
pur les arerages incurre deuant. Note per le Seignior
Dyer in 23 Eliz. Regina fol. (e) 376 & 377. quel probe
que reservations ser̄t expound solongq̄ le reasonable intend-
ment des parties deſſt collect per les parols de lour fait ;
& est apparent que l'intention des parties in le case al barre
fuit, que le lessé paiera rent pur le temps que per force
del dit demise il occupiet le dit Celler : mes intant que l'ob-
ligation fuit forſeit, le Court move le Pl̄ a prendre les ar-
rerages, costs & damages, obe q̄ il fuit content, & issint nul
Judgment fuit done.
Nota Leteur, quant al dit case mise al barre dun done in
tail dun (f) acre al comon ley, & dū acre in Borough English
rendant un boef, & puis le doné moztuſt ayant issue 2 firs,
issint que lun acre discent al un, & l'auter al auter, q̄ forsq̄
un boef serra pay. Pour le melleur apprehension del ley, &
del reason de ceo in cest case & auters semblable, est ascavoir,
q̄ la est diversity in ley, quant per operation del ley sans ac-
del party la ser̄t multiplication dun intire service, & quant
nemp : Et pur ceo la est diversity enter very Seignior &
very tenant, & inter le donoſ & doné, ou le lessor & lessé,
car in case de very seignior & very tenant, cibien le an-
nuel come le casuel entre (g) services in plusors cases ser̄t
multi-
- (c) 2 Rol. 65. Co.
 Lit. 6. a. 2 Co. 55. a.
 9 Co. 47. b.
- (d) Dyer 377. pl.
 27. 2 Brownl. 300.
 2 Sand. 166. Cr. El.
 323. 1 Vent. 91.
 17 E. 2. Executors
 112.
- (e) Dyer 376, 377.
 pl. 27. 2 Brownl.
 300. 1 Vent. 91.
 2 Saund. 166.
- (f) Devant 107. a.
- (g) 8 Co. 105. b.
 6 Co. 1. b.

multiply, cōe appiert in Bruertons Case in le 6 parts des mes Reports, & in le 8 part de mes Reports f. 102. in John Talbots Case: Mes in le case del donoz & donæ, ou lessoz & lessæ, l'entire rent reserve ne serra per aucun division ou del reversion ou del possession per act in ley multiply, & pur ceo si in le dit case del un acre al common ley & del autre in Borough English le donæ deby avant 2 firs, cest seberal discent que est act in ley ne chargera chescun de eux obe l'entire service, nient pluis q si le donoz in mesme le case mojust avant issue 2 firs issint que le reversion discent seberalment per act in ley, uncore le donæ ne lour heirs ne serf charge forsqz obe un entire service. Munt si home soit seisie de 2 acres, lun de part son pier, & l'auter de part la (a) mere, & fist lease dambideur pur vie, reserband annuellement un agnel al lessoz & ses heirs, & lessoz mojust sans issue de son corps, les seberal heirs naveront 2 agnells, mes un agnel solemt. Munt si home done terre a deux homes & a les heirs de lour deux corps ingendres, rendant un (b) esperber, & ils debieront, lour seberal issues ne paiera forsqz que un esperber: & le reason de ceur & auters semblable cases, que l'entire services in ceur cases ne incresef, est, pur ceo que le reservation del donoz ou lessoz est son title solement, & quant il mesme reserve forsqz un, le ley, que touts foits est foundue sur droit & equity, ne unques encresera ceo, ou donef a luy pluis que il mesme ad reserve. Et le reason de cest diversity appiert in Woodlands Plowd. Coment. 94. car incroachment per le donoz sur le donæ, ou del lessoz sur le lessæ, ne liera eux in avowry, come ceo serra inter seignior & tenant, & le reason est, pur ceo que quant le donoz & lessoz, ou le heir de aucun de eux avowra, il doet monstre le original reservation, per que appiert quant le donoz ou lessoz ad reserve: Et obe ceo accord le Judgnt in Sir William Fosters Case in le 8 part de mes Reports fol. 64. a. que le donoz ou lessoz ne besoigne in avowry dalledger seisin, ne encroachment sur eux liera eux, pur ceo que le reservation est lour title. Mes si seignior & tenant soit, & le tenant fait done in tail, ou lessa pur vie, le remainder in fee, la encroachment per le seignior sur le donæ ou lessæ liera eux, car le seignior ne besoigne a monstre le commencement del seignior; mes ne liera issue in tail: & obe t accord 20 E. 3. tit. Avowry 131. 5 E. 4. 2. a. & F.N.B. 11. a. in la ley est qnt le ley create le tenure, come

6 Co. 1. b. 2. a. 8 Co. 105. Co. Lit. 149. a. b.

(a) 1 Co. 100. b. Co. Lit. 12. b. Br. discent 11. 14 H. 8. 8. b. Plow. 132. b. 8 Co. 54. a.

(b) Co. Lit. 197. b.

Cr. Car. 81. 8 Co. 65. a. 1 Brownlow 170.

Plow. 95. a. 9 Co. 34. a. 4 Co. 11. b. F.N.B. 11. d.

Humfrey Lofields Case. Part X.

(a) Co. Lit. 23. a.
143. 2.

(b) 8 Co. 105. b.
106. a. b. 6 Co. 1. 2.
Co. Lit. 149. a. b.

come si s'ioz & tefi soit per fealty & le annuel rent dun Ag-
nel, & le tefi fait done in tail a 2 homes & aux heirs de leur
corps sans auct' reserbat, oze les donees tiendra del donoz p au-
tuel services, come il tient (a) ouster, Lit. f. 4. b. 33 H. 6. 7. a. & c.
unt si les donees aiant issues mozt, leur seeral issues ne
patera forsq' un Agnel, car le donoz ou les h's in abowry
doit mte le tenure inf le s'ioz & tefi, & le done in tail, s'unt q'
appiet al court q' forsq' un Agnel al temps del done fust due,
& le ley in prejudice des heirs des donees ne increasera ceo.
Mes la est diversite inf ceux q'x sont intire services, car auct'
services p le mere operation del ley serf increasé; & p t' si
home seisse de 2 acres lun al comon ley, & l'auter del custom
de Borough Anglois, & fait done in tail dambid, & le donee
ayant issue 2 f'z mozt, ambideur les f'z ferra fealty, inf la
ley de homage si t' soit reserbe p le party, ou create p le ley.
S'unt si le donoz mozt ayant issue 2 f'z, ambideur les f'z
adont homage & fealty: & s'unt diversite inf entere (b) ser-
vices de profit & de nul fidelite, & services de fidelite & de nul
profit. Mesme la ley est si s'ioz & tefi soient p service de
ch're, & le tefi done le tenancy a 2 homes & a leur heirs de
leur corps, & ils mozt ayant issue, leur issue teigne sebe-
raint p service de ch're, car t' est p le defence del s'ioz & del
realm: & s'unt auct' diversite ent' intire service p le private
profit del s'ioz, & service entere p le publicq' defence del realm:
Vide tous ceux in le dit case de John Talbot cite; & p ceux &
auct' diversites la mise tous les lures directint probant eux
soient bien sans aucun contrariety ou difficulty accord.

Mich. x Jac. Regis,

Que commence Paschæ 10 Jacobi Rotulo 1639. in Communi Banco.

Arthur Legats Casé, in subversion des pestilent Patents des laroneux Concealours.

EDwardus Cockle nuper de Wimondham in comitatu prædicto husbandman attachiatus fuit ad respondendum Arthuro Legat generoso, de placito quare vi & armis sex acras pasturæ & sex acras bosci cum pertiis in Wimondham quas Johannes Smith Generosus præfato Arthuro dimisit ad terminum qui nondum præteriiit, intravit, et ipsum à firma sua prædicta eiecit, & alia enormia ei intulit, ad grave dampnum ipsius Arthuri, & contra pacem Dom. Regis nunc, &c. Et unde idem Arthurus per Robert Love Attorfi suum queritur, qd cum præd Johannes decimo nono die Octobris

bris Anno Regni Domini Regis nunc Angliæ q̄tavo apud Wimondam dimississet eidem Arthuro tenementa prædicta cum pertinentiis habendum & tenendum eidem Arthuro executoribus & administratoribus suis a festo Sancti Michaelis Archangeli tunc. ultim' præterit' pro & durante termino 3 annorum extunc proxime sequentium plenarie complendorum & finiendorum, virtute cujus dimissionis idem Arthurus in tenementa prædicta cum pertinentiis intravit, & fuit inde possessionatus quousque prædictus Edwardus postea scilicet decimo die Aprilis Anno Regni dicti Domini Regis nunc Angliæ nono vi & armis, &c. tenementa prædicta cum pertinentiis quæ prædictus Johes eidem Arthuro in forma prædicta dimisit ad prædictum terminum qui nondum præterit, intravit, & ipsum a firma sua p̄dicta ejecit, & alia enormia, &c. Et contra pacem, &c. unde dicit quod deterioratus est, & dampnum habet ad valentiam viginti librarum, & inde producit sectam, &c. Et præd' Edwardus per Thomam Blofield Attornatum suum venit & defendit vim & injuriam quando, &c. Et dicit quod ipse in nullo est culpabilis de transgressionem & ejectionem prædictis prout p̄dictus Arthurus superius versus eum queritur, & de hoc ponit se super patriam, Et p̄dictus Arthurus similiter. Ideo præceptum est Vicecomiti quod venire faciat hic a die Sanctæ Trinitatis in tres septimanas duodecim per quos, &c. Et qui nec, &c. Ad recogn', &c. Quia tam, &c. Ad quem diem Jurata inter partes p̄dictas de p̄dicto placito positi sunt inter eas in respectum hic usque ad hunc diem scilicet in octabis Sancti Michaelis tunc proximi sequent', Nisi Justic' Domini Regis ad Assisas in comitatu p̄dicto capiend' assign' p̄ formam statuti, &c. die Lunæ quinto decimo die Julii proximi præterit' apud Castrum Norwic. in comitatu p̄dicto prius venissent. Et modo hic ad hunc vesi tam p̄dictus Arthurus quam p̄dictus Edwardus per attornatos suos p̄dictos, & p̄fat' Justic' ad Assisas coram quibus, &c. mis. his Recordum suum in hæc verba, Postea die & loco infra content' coram Edwardo Coke Milite Capitali Justic' Dñi Regis de Banco, Joh. Crooke Milite uno Justic' dicti Dom. Regis ad placita coram ipso Rege tenend' assign' Justic' ejusdem Dom. Regis ad Assisas in comitatu Norfolk capiend' assign' p̄ formam statuti, &c. &c. vesi tam infranominat' Arthurus Legat quam infrascript' Edwardus Cockle p̄ attornatum ejus infracontent' Et Jur Jur e unde

Part X. Arthur Legats Cafe.

de infra fit mentio exact' similit venes, quos duodecim, videlicet, Robertus Seaman, Adam Bale, Bartholomeus Harrison, Thomas Reinolds, Willielmus Bidwel, Henricus Howlet, Thomas Crooke, Richardus Russel, Thomas Tilney, Johannes Freeman, Johannes Jewel, & Edmundus Johnson in Juratam prædictam Jurat existunt, Postmodumque unus Jus prædict, videlicet, prædictus Robertus Seaman, ex assensu ambarum partium prædictarum, ac per mandatum Justiciariorum prædictorum, à pannello prædicto penitus extrahit, &c. Ideo ex assensu partium prædictarum, Jura prædicta ulterius ponit in respectum, hic usque in Octabis Sancti Hillarii, Ideo Vicecomes habeat corpora, &c. Et apponit decem Tales, ad quem diem hic venit tam prædictus Arthurus, quam prædictus Edwardus per Attornatos suos prædictos, Et Vicecom modo mandat, quod quoad distringend' Bartholomeum Stone, & ceteros Juratores breve Domini Regis sibi direct' nominat breve illud adeo tarde sibi deliberafuit, quod prop' Brevitatem temporis nullam inde executionem facere potuit, sed quoad ponend' decem Tales unde in eodem brevi fiebat mentio, idem vicecom modo mandat, quod executio inde patebat in schedula brevi illi annex' in qua quidem schedula continentur panellum de nominibus decem Juratorum, quorum nullus, &c. Ideo Jurata prædicta alterius ponit in respectu hic usque à die Paschæ in quindecim dies, Nisi Justic' Domini Regis ad Assisas in Comitatu prædicto capiend' assign' per formam statuti, &c. die Mercur' in prima septimana quadragesimæ, apud Thetford in Comitatu prædicto Prius venes, pro defectu Jus, &c. Ideo vicecom distringat Juratos prædict per omnes terras, &c. Et quod de exit, &c. ita quod sint hic nisi, &c. ad faciend' Jusm præd'.

Norff. ff. Postea die & loco infracontent, cor' Edwardo Coke Milite, Capitali Justic' Domini Regis de Banco, & Johanne Crooke Milite, uno Justiciar' dicti Domini Regis ad placita coram ipso Rege tenenda assignato, Justiciario ejusdem Domini Regis ad Assisas in Comitatu Norfolkicæ capiendas assignato per formam statuti, &c. venit tam infranominatus Arthurus Legat, quam infrascriptus Edwardus Cockle per Attornatos suos infracontentos, Et Juratores Juratæ unde

infra fit mentio exacti similiter venerunt, qui ad veritatem de infracontent' dicend', elect', triat', & jurat', diē super Sacramentum suum, Quod nuper Rex & Regina Philippus & Maria, nono die Julii annis regnorum eorundem Regis & Reginae Philippi & Mariae quarto & sexto, fuerunt seisciti de & in Manerio de Wymondham in Comitatu p'dicto in dominico suo ut de feodo, in jure coronae suae Angliae, unde terrae & tenementa in narratione infra scripta tunc fuerunt parcell', p'dictisq; nuper Rege & Regina Philippo & Maria, sic ut p'fert, de & in manerio p'dicto unde, &c. seiscitis existentibus, iidem Rex & Regina eodem nono die Julii, annis regnos dictos nuper Regis & Reginae Philippi & Mar', quart' & sexto, fecerunt Literas suas patentes sub magno sigill' suo Angliae, cuidam Georgio Howard Militi, de p'dictis Terris & Tenementis in narratione infra scripta nominatis, inter alia per nomina duarum peclarum terrae vocat' Nettlehamsted & Wikemans, continent' per aestimationem quindecim acras, jacent' & existē in Wymondham p'dicta in Comitatu p'dicto, tunc vel nuper in tenura sive occupatione Johannis Coleman, ac nuper Monasterio de Wymondham quondam spectan' & pertineñ, ac parcella possessionum inde tunc existē, quarum quidem Literar' Patent' Tenor' sequitur in hac verba: Rex & Regina omnibus ad quos, &c. salutem: Sciatis, Quod nos in consideratione boni, veri, & fidelis servitii per dilectum & fidelem servientem nostrum Georgium Howard Militem ante hac nobis impensi, ac p' diversis aliis causis & considerationibus nos specialiter moventibus, de gratia nostra speciali, ac ex certa scientia & mero motu nostris dedimus & concessimus, & per p'sentes damus ac concedimus p' nobis haeredibus, & successoribus nostrum p'fatae Reginae p'fato Georgio Howard omnes illas duas acras terrae nostras, jacentes & existentes in Ashwyven in Comitatu nostro Norfolciae, &c. Damus etiam & concedimus per p'fatas prefato Georgio Howard Militi, duas pecias Terrae nostras vocat' Nettlehamsted & Wykemans continentes per aestimationem quindecim acras, jacentes & existentes in Wymondham p'dicta, in Comitatu p'dicto, modo vel nuper in tenura, sive occupatione Johannis Coleman, ac nuper Monasterio

Part X. Arthur Legat's Case.

naſteſ de Wymondham quondam ſpectantes & pertinentes, ac parcella poſſeſſionum inde exiſteſi, &c. Damus etiam, &c. pro conſideratione prædicta, per præſentes pro nobis, hæredi- bus & ſucceſſoribus noſtrum præfatæ Regiæ, concedimus præfato Georgio Howard Militi omnes & omnimodas boſcos & ſubboſcos & arbores noſtras quaſcunque, de, in, & ſuper præmiſſis crescentes & exiſtentes, ac totam terram, fundum & ſolum eorundem boſcorum, ſubboſcorum, & arborum, & reverſionem & reverſiones quaſcunque omnium & ſin- gulorum præmiſſorum ſuperius expreſſorum & ſpecificatoſ, & cujuſlibet inde parcellæ, necnon redditû annualem profi- cua quaecunque reſervat ſuper quibuſcunque dimiſſi. & con- ceſſi. de præmiſſis ſeu de aliqua inde parcella quoquo mo- do facti, adeo plene & integre, ac in tam amplis modo & forma prout aliqui Abbates, Priores dicti nuper Abbaſ & Priorat eorum alicujus, aut aliqui Gardiani, aut aliqui Ca- pellani vel Cantariſæ, vel Incumbentes, aut aliquis Capellanus Cantariſa vel Incumbens Cantariarum, Gildarum, Lampæd, Obiſ, & Luminat prædicti aut aliquis alius ſive aliqui alii præmiſſa, aut aliquam inde parcellam antehac habentes, poſ- ſidentes unquam habuerunt, tenuerunt, vel gaviſi fuerunt, habuit, tenuit, vel gaviſus fuit, ſeu habere, tenere, uti, vel gaudere debuerunt, aut debuit, adeo plene, libere, & integre, ac in tam amplis modo & forma, prout ea omnia & ſingula præmiſſa ad manus noſtras ſeu ad manus præchariſſimi patris noſtrum præfatæ Regiæ, Henrici octavi nuper Regis Angliæ, vel ad manus præchariſſimi Fratris noſtrum præfatæ Regiæ, Edwardi ſexti, nuper Regis Angliæ, ratione vel prætextu ſeverat diſſolutioni dicti nuper Monafterii, Priorat, Cantariat, Gild, Lampæd, Obiſ, & Luminat, prædicti, aut ratione ali- cujus Actus Parliamenti, ſeu aliquorum Actuum Parliamenti, ſeu quocunque alio legali modo, juſ, ſeu titulo devenire de- buerunt, ac in manus noſtras jam de juſ, ratione diſſolutioni dictorum nuper Monafterii, Prioratus, Cantat, Gild, Lam- pæd, Obiſ & Luminat exiſtere debent vel deberent, Quæ quidem omnia & ſingula præmiſſa cum pertinentiis, a nobis ac a patſ, & fratſ noſtrum præfatæ Regiæ conceſſat, & detent fuerſ, ac redditû & reventiones inde nec alicujus inde parcelſ nobis

antehac responsa fuerunt, Et quæ quidem omnia & singula præmissa cum pertinentiis modo in toto extendentia ad clarum annuum valorem viginti & duarum librarum, octo solidorum, & sex denariorum, Et non ultra, videlicet, &c. prædicti res, tenementi, præd. pasturæ, & cætera præmissa in Posselwicke, Keningham, Massingham, magna Berlingham, Gist, Girston, Holme, Hunstonston, Alderford, Duckleborowe, Boyton in Parochia Sancti Georgii, in Civitate Comitatus Norwici, Buckenham, nova Wimondham, Plumsted, Tylenham, Southelingham, Dinham, & Estlyham prædictis, in dicto Comitatu Norfolk, ad clarum annuum valorem quinquaginta sex solidorum & quatuor denariorum, &c. Proviso semper, Quod si contingat prædictas terras & tenementa superius expressi. & specificat aut aliquam inde parcelam tempore consecutionis harum Literarum nostrarum patentium esse majoris annui valoris, antiqui redditus, quam in præsentibus literis patentibus particulari specificat, quod tunc bene licebit nobis præfatis Regi & Regine hæredibus & successoribus nostrum præfatæ Regine de tempore in tempus durante termino decem annorum post datum harum Literarum patentium, in omnia prædictas terras, tenementa, & cætera præmissa in quamlibet inde parcelam sic majoris annui valoris existens intrare & ea seiscire, habere, & manibus & possessione nostris retinere quousque nos præfati Rex & Regina, hæredes & successores nostrum præfatæ Regine de tantis denariorum summis bonæ & legalis monete Angliæ, ad quantam hujusmodi major & annuus valor præmissi seu alicujus inde parcelæ secundum ratum perquisitionis viginti annorum se attingent sumus inde satisfacti & persoluti, Habend', tenend', & gaudend' prædicta messuagia, domos, ædificia, terras, tenementa, prata, pascua, pasturas, boscos, subboscos, redditus, reversiones, & hæreditamenta nostra quæcunque cum pertinentiis, ac cætera omnia & singula præmissa cum eorum pertinentiis universis præfato Georgio Howard Militi, hæredibus & assignatis suis ad proprium opus & usus ipsius Georgii, ac hæred' & assignat' suorum in perpetuum, tenend' prædicti messuagia terræ, tenentia, & cætera omnia & singula præmissa cum eorum pertinentiis de nobis ac hæred' & successoribus nostrum præfatæ Regine ut de manerio nostro

Part X. . Arthur Legat's Case.

nostro de East Greenwich in comitatu nostro Kan̄ per fidelitatem tant̄ in libero focagio & non in capite pro omnibus reddit̄ serviciis & demand' quibuscunq; proinde nobis hæredibus & successoribus nostrum præfat̄ Reginæ proinde quoquo modo reddend' solvend' vel faciend', Et ulterius de ampliori gratia nostra speciali dedimus & concessimus & per præsentēs pro nobis hæredibus & successoribus nostrum præfatā Reginā damus & concedimus præfat̄ Georgio Howard Militi omnia extunc redd' reversiones & proficua omnium & singulorum p̄missorum cum eorum pertineñ a fest' Annunciationis beat̄ Mariæ virginis ultim̄ p̄terit̄ hucusque p̄venieñ sive cresceñ habend' eadem ex dono nostro absque comp' seu aliquo al' p̄inde nobis hæredibus & successoribus nostrum p̄fat̄ Regiñ quoquo modo reddend' solvend' vel faciend'. Volumus etiam & per p̄sentes concedimus p̄fato Georgio Howard quod habeat & habebit has literas nostras pateñ debit̄ modo fact' & sigillat̄ absque sine seu feod' magno vel parvo nobis in Hanaperio nostro seu alibi ad usum nostrum p̄inde quoquo modo reddend' solvend' vel faciend' eo quod expressa mentio, &c. In cuius rei, &c. T. R. & R. apud Westmonast̄ ix die Julii annis quarto & sexto Philippi & Mariæ, Et ulterius Jus p̄dicti dicunt super sacramentum suum quod p̄dicto tempore confectio- nis prædictarum literarum patentium sic ut p̄fertur p̄fat̄ Georgio Howard manerium p̄dictum à p̄dictis nuper Rege & Regina non concelat̄ nec detent̄ fuit sed reddit̄ & reversiones inde dicto Domino Regi & Dominæ Reginæ tunc respons. fuerunt, ac manerium illud ad tunc fuit in onere & comp' de recordo, ac reddit̄ & reversiones inde præfat̄ nuper Regi & Reginæ Ph. & Maf̄ respons. fuerunt sed utrum terf̄ & ten̄ in narf̄ infrascript̄ mentionat̄ per easdem L̄ras Pateñ præf. Georgio Howard militi transiverunt necne Jus præd. penitus ignorat, & inde petit advisament̄ & considerationem cuf̄ in præmissis & si super totam materiam p̄dictam per Jus p̄dictos in forma p̄dicta comper̄ videbitur Justic̄ & Cuf̄ quod p̄dict' terf̄ & tenememta in narratione infrascript̄ mentionē per p̄dictas Literas Patentes Dominorum Phil̄ & Mariæ nuper Regis & Reginæ Angl' præfat̄ Georgio Howard transiverunt, tunc Jus prædict' dic quod prædictus Edwardus Gockle non est culpabilis
de

Arthur Legat's Case. • Part X.

de transgſſ & ejectione infraſpec̃ prout ipſe interius placitand̃
allegavit, & ſi ſuper totam materiam per Juſ prædictos in for-
ma prædicti cōperſi videbitur Juſtic̃ & Cuſ, quod terſi & tene-
ment̃ in narratione infraſcripti mentionat̃ per prædicti literas
pateſi Dominorum Ph. & Mar. nuper Regis & Regina Angliæ
præſat̃ Georgio Howard non tranſiverunt, &c.

Mich.

Mich. x Jac. Regis,

Que commence Paschæ 10 Jacobi, Rotulo 1639. in Communi Banco.

● Arthur Legats Case, in subversion des pestilent Patents des laroneux Concealeurs.

A Arthur Legat Gen post Ejectione firmæ versus Ed. Cockle sur demise fait de 6 Acres de bois in Wimondham in le County de Norfolk per Joh. Smith 19 Oct. An. 8. Jan. pur 3 ans & que le Def. luy eject, &c. Le Def. plead non culpæ special verdit fuit trove a cē effect. Le Roy & Roigne Ph. & Mar. fues seisie del Manor de Wimondham in le Countie de Norfolk in fæ in droit de leur corone Dengleterre (dont le dit 6 Acres de bois in queux, &c. fueront parcel) & 9 Julii An. 4 & 6 del dit Roy & Roigne p leur Letters Patents desouth le Grand Seal Dengleterre in consideratiō del service fait p Sir George Howard Chevalier ex certa scientia, mero motu, & gratia speciali done & grant al dit George Howard (inter alia) omnes illas duas pecias terræ nostras vocat Nettlehamsted & Wikemans cont per æstimatiō 15 Acras jâc & exist' in Wimondham in Com Norf. modo vel nuper in tenura sive occupatione Jo. Colman ac nuper monast' de Wimondhā quond' spect' & priñ, &c. quæ quid omnia

omnia & singula præmissa cum pertinentiis à nobis ac a patre & fratre nostris præfata Regine concelata & detent fuer, ac redditus & reventiones inde nec alicujus inde parcellæ ante hac responsa fuer Habendum præd' Georgio Howard Militi hæred' & assignat suis, &c. Et que les dits 6 Acres de bois dont, &c. fuer pcel del dit fre appel Nettleshamsted & Wilemans, Et que le dit Hanoz de Wilemondham dont, &c. al tēps del fealsans des dits Lfes Patents non concelat nec detent fuit, sed fuit in onere & cōpotō, ac les rents & pñts de t̄ (savan des dits terres appel Nettleshamsted & Wilemans) fuer rñde al Roy debāt & al tēps des dits Lfes Patents; Et si les dits fres appel Nettleshamsted & Wilemans esseant pcel del dit Hanoz passet ou nemy fuit le question; Et si les dits fres ne passet my p les dits Lfes Patents, donques ils troveront p le Pl. &c. & si &c. Et in cest Case 3 Questions fuer move.

1. Si les dits 2 parcells del Hanoz appel N. & W. sef cōe cest case est dit in Ley conceal ou detein del Roy qñt le mañ m̄ dont, &c. est in charge al Roy & Roign, cōm̄ q in veritie m̄ les dits 2 pcels appel N. & W. fuer occupie p un intruder q rñde riens pur eur. Le 2 Question fuit intant q le dit grant fuit de les dits 2 pcels per special nosmes de N. & W. Wilemondham in Cōm̄ Noz. & ad ceuz certeinties, s. modo vel nuper in tenura sive occupationi Johannis Colman, ac nuper Monasterio de Wilemondham quondam spectāñ, &c. (touts queux fuer voier) si les dits 2 pcels passeront nient obstant q ils ne serradit in Ley conceal ne detein. 3. Si le dit grant per Lfes Patents ex certa scientia, mero motu, & gratia speciali, ferra le grant bone nient obstant le fauritie del dit clause de Quæ quidem, &c.

¶ Et quant al pñmer fuit resolve, que quant le Roy & Roign fuer rñde del ancient rent del Hanoz, coment que les Fearmons ou Officers & Ministers le Roy permittont aucun de intruder in alcun parcel del Hanoz uncore ceo ne serē dit in Ley conceal ne detain; car le Hanoz est in charge, & per consequence in Ley chescun part de ceo, & Turpis est pars quæ non convenit cum suo toto.

¶ Quant al second fuit object, que la fuit multiplicite de certauntie in le clause del grant mesme; 1. In le chose grant, cestassavoit, per certain nosmes, 2. Per certain content, cestassavoit, 15 Acres, 3. In certain Ville, 4. In certain Countie, 5. In locupation dun certain person, 6. In Title, nuper Monasterio de Wilemondham spectāñ; & tous ceux sont voier, & pur ceo cōm̄ in veritie les dits terres appel N. & W.

& **W.** ne fuet conceal, uncoze ils passer, car (a) utile p inutile non vitiatur: & p̄ t̄ ils citont le libze in (b) 29 E.3. f.9. ou le Roy E.3. grant al **William Countee de Salisbury** le firs omnes advocaciones **Eccliarum** q̄ p̄tinent ad prioratum de **Mountegue**, &c. & quas nu p̄ concessimus **Willm** adonques **Comiti Sarum** patri p̄dicti **Willm**, & in verit̄e **ladvowson** del **Esglise** de **W.** adōques in question ne fuit grāt al pier, & uncoz la le grant est tenus bone: & si t̄ fuit in le case dun common person, le faur **Quæ quidē**, &c. ne avoide le grant. Mes fuit responde & resolve p̄ totam Cui, q̄ le grant fuit void pur 4 Reasons; 1. Pur t̄ q̄ le clause de **Quæ quidē**, &c. fuit in judḡmt del ley le suggestion del patentee, 2. Que t̄ fuit un clause de restraint a restrainer le grant al chose solemt conceal del Roy & Roigne, &c. & nemy in charge, 3. A fine le Roy & Roigne ne tendont my a diminisher aī part de lour revenue, 4. Intāt q̄ les parols sont in le conjunctive concealata & detenta fuet, &c. in quel case si la terre poit estre dit detein del Roy, ou nemy. Quant al p̄mier, s. q̄ le dit clause de **Quæ quidē**, &c. serra prise in Ley cōe le suggestion del partie, in 19 E.3. tit. Grant 58. (d) le Roy p̄ les **Letters Patents** done **Licence** d'appropriater **ladvowson** de **D** al **P̄ior** de **C.** q̄ quidem advocatio non tenetur de nobis, &c. & in verit̄e **ladvowson** fuit tenus mediatem̄t del Roy, & le **Licence** fuit tenus void, car le libze dit q̄ le suggestiō fuit faur. Et in 21 E.4. 48. a. si (e) le Roy grāt le **Manor** de **D.** &c. quod quidem manerium ad manus nostras devenit ratione escheaf, &c. & in verit̄e le **Manor** ne vient al Roy per escheat, le grant est void; & le reason q̄ **Husley Chief Justice** la rend est, p̄ t̄ q̄ le faur̄tie vient del surmise del partie: Et obe t̄ accord 8 H.7.3.b. (f) 37 H.8. tit. Patents. B̄r (g) & 9 E.6. 28.a.b. Et in 16 E.4. f.7.a. est tenus q̄ le Patentee ne p̄ndt advantage d'aucun autre title q̄ t̄ que est exp̄es in les **L̄es Patents**: & in la del confirmation des **L̄es Patents** An. 18 El. c.2. la est un p̄viso, Provided always that this Act, &c. shall not extent to any Letters Patents which at any time since the beginning of her Majesties Reign have been or hereafter shall be granted by the Queens Highness to any person or persons of any Manors, Lands, &c. by force of any information, suit or suggestion made or to be made to her Highness, that the same Manors, Lands, &c. were concealed Lands: & tousz foits puis cest act, & puis autiel ad dī confirmat des **L̄es Patents** An. 43 El. c.19. les dits clauses de **Quæ quidē**, &c. & ordinaf p̄visoēs conēnāt concealm̄ts fuet construe & prise in ley pur informations, suggestions

(a) 3 Co. 10. a. Co. Lit. 3. a. 227. a. 2 Sid. 63, 70. 2 Rol. Rep. 422. Cart. 154, 155. 2 Sand. 169. Hob. 171. (b) 29 E. 3. 8. a. b. Apres 113. b.

(c) 6 Co. 55. b. Godb. 423.

(d) 2 Rol. Rep. 275, 278, 360. Plowd. 335. a. Lane 109, 110. Godb. 423.

(e) 1 Co. 52. a. Lane 12. 2 Rol. Rep. 360. Dyer 87. pl. 100.

(f) 37 H. 8. Br. Patent 100. (g) 2 Rol. Rep. 274, 278. Moor 318. Mod. Rep. 196.

Arthur Legats Case. Part X.

Hard. 231, 232.
2 Rol. Rep. 275.
6 Co. 55. b. Godb.
423.

suggestions & suits del Patenté al Roigne p terres conceal. Quant al 2. le dit clause de Quæ Quidem, &c. contein poïs de restraint insert pur le benefit le Roy, car ceo imply un suggestion al Roy (côe ad este dit) & un respons fait a t^l p le Roy, s. le suggestion del Patenté al Roy est, que il ad trove terres queux sont conceal de luy, & de queux il nad aucun rent profit ou auter benefit r^hdue, & pur t^l pleist au Roy in reward de son service, &c. a granter ceux terres a luy queux, il per son industrie ad trove d'appertain al Roy; A quel le Roy responde, jeo sue content a graunter a vous les dits terres, issint que solongz vostre suggestiô ceux sont conceal de nous & dont nous nadomus aucun rent ou profit r^hdue; sur que le dit clause de Quæ quidem, &c. fuit adde in le Patent a restrainer le grant le Roy aux ter^{rs} soleit queux suet conceal de luy & a nuls auters dont le Roy fuit r^hdue aucun rent ou profit.

Vows Case in
Mich. 22 & 23
El. in Bank le Roy.
Moor 417. 2 And.
19. Raymond 177.

Quod restringendi causa additur in casu Domini Regis si falsum sit vitiat cartâ: & pur t^l un notable Case fuit cite que fuit adjudge Mich. 22 & 23 Eliz. Regina in Bank le Roy, mes t^l fuit enter Pascha 21 Regina Eliz. Rot. 33. ou le Case fuit que Francis Wowe port Ejectione firmæ vers Rich. Smith sur demise fait per Leonard Wowe 3 Oct. Anno 20 Eliz. Regina dun mese, &c. in Hallangton in le Countie de Leic: Le Defendant plead rien culp. & al Nisi prius devant Sir James Dier adonques Chief Justice del Bank, &c. un especial Verdit fuit trove a cest effect: William Dexter fuit seissie del manor de Hallangton in le dit Countie de Leic in fee, dont le dit mese, &c. fuit parcel, & in temps R. 2. ent enseoff Henry Countee de Darbie & ses heirs, & puis le dit Countee assume sur luy le corone & regimen de cest Realm per le nomme de Henrie le 4. & puis 2 Aprilis Anⁱ Regni sui 7. ad humilem petition & supplicationem quorundâ Johannis Miton & Margaretæ Uxorⁱ ejus consanguineæ & hæredis dicti Willielmi Dexter, videlicet, filia Willielmi, filii p^{di}cti Willielmi Dexter, de gratia sua speciali p literas suas patentes sigillo Ducatus sui Lancastriæ confect gerentes datû eisdem die & Anⁱ, dedit & concessit p^{fat} Johanni Miton, & Margat Uxori suæ maner p^{fat} uade, &c. Habed eis & hæred de corpore ejusd Margat legitim p^{creat}, &c. le dit Jo. Miton & Margat la s^{ee} ont issue & mozt, & puis un Thomas Wowe, Cousin & heir del Corps, Anno 1. Reg. Mar des dits tenements in queux, &c. enseoff le dit Richard Smith oze Def. & del residue del Manor enseoff le dit Leonard Wowe le lessor del p^{fat}: Le Jury trove ouster in

in ceux parols, idemque Leonardus Vowe frater præd. Tho. Vowe postea, s. primo die Julii anno Regni dictæ Dñæ Reginae nunc 17 in vita dicti Th. Vowe senioris fratris sui, dans eadem Dñæ Reginae intelligi & informari seipsum fore propriū exitū & hæred' de corpore præfatæ Margaretæ Myton legitime præfatæ, eidem Dñæ Reginae humilimè supplicavit, ut eadem Dña Regina nunc p Literas suas Patentes sub magno sigillo suo Angl' sigilland' renovare & confirmare velit eidē Leonardo & hæred' suis de corpore suo legitime præfatæ præd. cartam factam per præfatū quondam H. 4. gerent' datum, &c. Per quod Dña Regina nunc humili petitioni dicti Leonardi annuens, & informationi suæ fidem abhibens, primo die Julii anno 17. Volentes dictam intentionē præd. Regis H. 4. effectū capere & non evacuari, de gratia sua speciali & ex certa scientia & mero motu, certis causis & considerationibus ipsam Dñam Reginam specialiter moventibus, p Literas suas Patentes gereñi dat' eisdem die & anno dedit & concessit præd. Leonardo Vowe existēti (ut dat. fuit eidem Dñæ Reginae intelligi) pxiū hæred. & exitui de corpore præd. Margaretæ Myton legitime præfatæ, manerium præd. unde, &c. Habendum & tenendum præd. Leonardo & hæred' de corpore suo legitime præfatæ, ubi revera præd. Leonardus non fuit pxius hæres de corpore præd. Margaretæ Myton, sed præd. Thomas Vow fuit in plena vita & frater senior ejusdem Leonardi, & puis Thomas Vowe moxist sans issue, puis quel mort le dit Leonard adonques fuit in verity pcheine heir del corps del dit Margaret Myton: Le Roign recitant le dit mispission, & tout le dit special matter desouth son pxiy Seal port date 9 Julii anno Regni sui 20. (p est garrant al grand Seal, grant al dit Leonard Vowe le dit Manor dont, &c. in tail, mes devant q il ad obtain t desouth le grand Seal, le dit Roign, 2 Sept. anno Regni sui 20 supradicto, p ses Letters Patents desouth le grād Seal, grant al dit John Farnham Esq; un de ses pensioners le dit mese, &c. in quo, &c. inter alia p nomen totius illius Mesuagii voc Vows, alias Mitons, alias Dexters, in Hallangston in Com Leic, quæ quidem omnia & singula præmissa & quælibet inde parcella à nobis aut à patre, fratre vel sorore nostris hucusq; vel usq; 8 diem Octob. anno Regni nri 17. conclata, subtrac̃ta vel injuste detent' fuer̃t, &c. a ad & tēti al dit John Farnham & ses heirs a tous jours, Proviso semper, quod si præmissa non sunt aut non fuer̃t a nobis aut a dictis patre, fratre vel sorore nris cōcelata, subtrac̃ta, vel injuste detent', & sic remanlef

usque tempus captionis primæ inquisitionis vel informationis, &c. quod tunc hæ Literæ Patentes quoad, &c. vacuæ erunt, & le p^{re}m certificate fuit Octabis Tris annⁱ Regni dict' Dⁿⁱæ Reginæ Eliz. 20. & puis cestascavoir, le p^{re}mier jour de October adonques pchein ensuant, le dit Leonard Lowe obtaine Letters Patents desous le grand Seal solong le dit Pryy Seal, & le dit p^{re}mier jour de October le 20 an avantdit, le dit John Farnham per fait indent & inrolle bargain & vend al dit Richard Smith ore Defendant le dit mese, &c. in quo, &c. a aver & tener a luy & les heirs, q^{ui} per force de ceo enter, &c. sur q^{ui} le dit Leonard Lowe enter & fiff le lease prout, &c. & si sur tout le matter avantdit, les dits Letters Patents fait al dit John Farnham fue^t sufficient in ley a passer le dit mese, &c. donqs ils trovont p^{er} le Defendant, & si non, donques p^{er} le Pl, & assesse damages & costs. Et in cest case sur argument fait al barre & al bench 4 points fueront resolve: P^{re}merment, que les dits Letters Patents de anno 17 Reginæ Eliz. fue^t void in ley, p^{er} t^{ant} q^{ue} ils fue^t in nature dun restitution, & le suggestion del dit Leonard Lowe recite in le dit patent q^{ue} il fuit prochein heir del corps del dit Margaret Witon fuit faux, & coment q^{ue} ceo fuit forsq^{ue} matter in fait, uncoze pur t^{ant} q^{ue} fuit le p^{re}ncipal motive del dit grant in nature dun restitution, & le entention del Roigne exp^{re}ss in les Letters Patents fuit, q^{ue} lentention del grant del dit Roy H. 4. p^{re}ndra effect, q^{ue} le dit Roign recitant les Letters Patents del Roy H. 4. & le imperfection de eux declare son intention in ceur parols, volentes dictam intentionem p^{re}dicti Regis Henrici 4. effectum capere & non evacuari, q^{ue} ne poet estre si le droit heir del corps del dit Margaret ne soit restore, a cest cause le dit grant del Roign Eliz. de anno 17. fuit void. 2. Fuit resolve, q^{ue} le dit clause de quæ quidem, &c. fuit in Judg^{me}nt del ley le suggestion del Patentæ, & adde a restraffi le dit grant in tiel manner, q^{ue} si le dit clause de quæ quidem soit faux (comt q^{ue} le dit mese soit grant per certain noime) uncoze le grant est void. 3. Fuit resolve, que quant les officers del Roy per force dascun matter de record poent aver cy certain notice des terres ou tenements in ceo comp^{re}se, que ils poient mitter eux in charge al Roy, coment que le Record mesme ne soit dascun effect ou validity in ley, uncoze in Judg^{me}nt del ley tiels terres ou tenements ne unques ser^{ont} dits conceal, car le negligence ou laches des officers ou ministers le Roy ne turnet le Roy en p^{re}judice in tiel

5 Co. 94. a.
Hob. 230.

Hob. 228.

tiel case : & p̄ t̄ aucun grant ou demise le Roy dascun tēf
 in certainty desouth Leschequer Seal, ou duist estre desouth
 le grand Seal, ou desouth le grand Seal, ou duist estre de-
 south le Dutchy Seal, ou desouth le Seal del Dutchy ou del
 Court de Augmentations, ou duist estre desouth le grand
 Seal, unē tiel terre ne poet est̄ encounter tiel record dit con-
 ceal ; & p̄ t̄ coment q̄ le dit grant del Roy H. 4. desouth le
 Dutchy Seal, ou duist ā est̄ desouth le grand Seal, com̄t
 q̄ riens passa p̄ t̄, uncore per reason de ceo le dit Hanoz de
 Hallangton ne poet unques en ap̄es estre dit conceal : Il-
 sint si le Roy E. 3. ad per ses Letters Patents desouth le
 grand Seal demise le Hanoz de Dale p̄ vie, ou pur ans, q̄l
 lease fuit voide per reason del misnomer del lease, ou aucun
 autre autiel imperfection, uncore le dit Hanoz ne unques
 en ap̄es poet ēē dit conceal : & si aucun p̄cel des possessions
 del corone soient in charge in le Dutchy, ou del Dutchy in
 Leschequer, ceux ne unques ser̄t dit conceal : & fuit dit que
 cest parol Conceal fuit parol de nobel invention, in temps
 passe nient in use ou conus al sages del ley forsq̄ in un B̄ief
 de que (a) Stamf. Prærog. b. parle, q̄l B̄ief est la appel
 B̄ief de terris conclatis, & gist ap̄es un general livery sue ;
 mes tiel B̄ief est ōe auxy conceal, car nest pas trobe in le
 Register original ou judicial, 4. Que nul terre on tenem̄t dōt
 le Roy est seissie, &c. com̄t q̄ soit conceal del Roy, ne poet
 estre dit in ley subtract ou detein del Roy, car le Roy ne poet
 est̄ disseise ou desore dascun terre, &c. Mes si le tenāt le Roy
 soit (b) disseise & morust sans heir, ōe le d̄t escheat al Roy,
 & la in verity la terre est deteine del Roy ; mes tiel d̄t ne
 passera p̄ le general grant del Roy del terre. Hill. 38 El. fuit
 resolve p̄ Popham & Anderson Chief Justices, in le case dun
 (c) Shane misse hors de Ireland, q̄ le clause de quæ quidem,
 &c. in autiel Letters Patents de concealm̄t des terres in
 Ireland amount a un suggestion, & esseāt faur, fait le grant
 de d̄s Rectozies p̄ certain nosme voide come icy in le 4
 point appearef. D̄nt al 3 reason, a fine le final intencion
 del Roy p̄ ceux Letters Patents fuit a rewarde le service
 del Patent̄, & nemy a diminisher aucun pt del revenue de
 son corone, mes soleim̄t a passer t̄ q̄ fuit conceal de luy : & le
 opinion de June in 9 H. 6. f. 28. b. fuit cite, (d) si hōe sue al
 Roy p̄ petition daver un Hanoz, & dit in son petition que le
 Hanoz ne vaul̄t q̄ x l. & ad un Patent de mesme le Hanoz,
 & puis est trobe de record, q̄ le Hanoz valuis̄t per annum. 40 l.

(a) Stamf. Prærog.
80. b.

(b) 3 Co. 4. b.
1 Leon. 271.
Stamf. Cor. 187. b.

(c) Hill. 38 Eliz.
Shanes Case.
Moor 417.

(d) 2 Rol. 188.

- (a) 1 Co. 46. a. 51. a.
52. b. 2 Co. 33. b.
5 Co. 94. a. 6 Co.
29. h. 55. b. 7 Co.
12. b. 8 Co. 56.
10 Co. 112. b.
11 Co. 4. b. 90. a.
Lane 110. Moor
45. 164. 9 H. 6. 28. b.
Hob. 223. 229.
Cr. Car. 198. Co.
Ent. 384. a. 41 Aff.
19. Br. Patent 38.
Mod. Rep. 196.
Kelw. 8. b. 12. b.
Yelv. 48. 2 Rol.
188. Dyer 339.
pl. 47. 352. pl. 26.
Plowden 332. a.
(b) Devant 110. b.
Moor 417. 2 An-
derf. 19. Raym. 177
(c) Devant 112.
- le patent seré repeal, car le Roy intend a diminuer son reve-
nue forsq r l. per annum, & sur le suggestion del Patenté il
fuit (a) deceive in le value, car p t il decrease son redenne
ell. per annum. Vide 16 E. 3. tit. Grant 54. Qst al 4 rea-
son, le dit clause de quæ quidem ad un double conjunctive,
cessascavoit, conclata & injuste detent, & come appiert per
le 4 point del dit case de (b) Vowe, terre, &c. ne poet estre
detaine del Roy; & issint fuit resolve in le dit case de
(c) Shane Hill. 38 Regine Eliz. ou le case fuit, Le Roigne
Eliz. p ses Letters Patents grant desouth le grand Seal de
Ireland ex certa scientia & mero motu, & gratia speciali, al
Edm Barret the Rectory of Sroze in the County of Longford
in Ireland (inter alia) pcel des possessions del jades Pstoy
de Loughlendy, Quæ omnia & singula præmissa à nobis & pro-
genitoribus nostris diu antehac conclata, subtracta & injuste
detenta fuerunt & adhuc sunt, a aver & tener al dit Edmond
Barret & ses heirs. Et fuit resolve q cest grant fuit voide,
p t q le dit clause de quæ quidem fuit in Judgmt del ley le
suggestion del Patenté, & le dit Rectory ne poet estt injust-
ment detaine del Roigne, & les pois sont in le conjunctive,
cessascavoit, conclata, subtracta & injuste detenta, & issint
Francis Shane que occupie la dit Rectory prebail encounter
le dit Patenté: & le 2 conjunctive est, & redditus & re-
ventiones inde, nec alicujus inde parcellæ antehac responsa
fuef, issint que ambideux le (d) conjunctives doient estre
veray ou auterment le grant est voide.
- (d) Co. Lit. 225. a.
- Quant al 3 point in le principal case, fuit resolve ou le
dit graunt fait a Sir George (e) Potward fuit ex certa sci-
entia, mero motu, & gratia speciali: Ex certa scientia (f) im-
poyt q le Roy ad sciéce de chose q il grant, & p t tiel Chartre
est appel assertive & nemy suggestive, come est dit in 2 E. 3.
f. 7. in John de Bretaines Case, mes ceo est desire intend del
verity que est le proper object de science, & nemy de faurity
que est non ens, & de ceo le Roy ne poet aver science, mes
in tiel case le Roy nient obstant ceur parols est ousterment
deceive in son grant, & pur ceo ils ne doneront al Patenté
ascun advantage.
- Ex mero motu propermt impoyt le honoz & bounty del
Roy q reward le Patenté p le merite de son service del mere
motion del Roy mesme sans ascun suit del pty: & fuit dit,
q ceur parols fuef abde puis lestatute de (g) 4 H. 4. cap. 4.
per quel la le Roy declare, q il voil absteiner a grant ascun
part
- (e) 3 Inst. 389.
(f) Plowd. 330. b.
1 Co. 51. b. 53. a.
3 Leon. 249.
(g) Rast. Patents 6.

part de ses rebenues, terres ou gardships si non a ceux queux ont deserbe, & ceux queux suont p aucun tiel chose serẽ punie & naverait le chose p q le suit fait ; puis quel act, au fine que nappiet que aucun suit fait, ceux parols fueẽ adde, cessascavoit, ex mero motu ; & le dit Act est intitule in le Rolle Brangwyn, que in le British language est un blank ^{Brangwyn.} Coznel, Anglice a white Crow ; & suit appel Coznel, p t q il suit sobent foits vocant & acquierant, & blank, pur ceo que il ad aulica & candida vestimenta. Ex gratia sua speciali, in respect del grace & sabour que le Roy ad conceibe del Patentẽ : Et suit resolve, que suit diversite inter clauses de (a) Quæ quidem, &c. car ascuns sont que sont adde solemẽt pur fait plus demonstration del certainty del chose grant, & ascuns qur concernont le title del Roy, ou le value del fre grant, ou pur fait restraint del grant le Roy come ad este dit avant : Et additions a faire plus certainty solement ne avoirdra le (b) grant le Roy dun certain chose ; come (c) 10 H. 4. f. 2. b. in Sir John Lestranges case, est tenu que si le Roy p office trove ad un manner in gard, & grant le dit Manor per certain nosme in tiel County, quod quidem Manerium nuper seissitum fuit in manus nostras, &c. & in verity cest Manor ne unques fuit seissie, ceo ne avoirdra le grant, car nest (d) material le quel le Roy ad seissie ceo ou nemy, & ne suit adde mes a fait plus certainty a ceo q fuit assets certain devant, & pur ceo ne avoirdra le grant coment que ceo soit faux : autrement est dun general grant come in le principal case la suit.

Jussint in Mich. 22 & 23 El. un case inter le Countee de Rutland & Thomas (e) Markham fuit per mandment del Roign El. referẽ al Bromley Chancelloz Denglisce, Gerard Attozny, & Popham Solicitoz, & le case fuit tiel : Le Roign Eliz. grant a Thomas Markham officium custodis Parcorum sive Boscorũ de Billow & Berkland in Foresta de Sherewood in Com Notr, quod quidem officium Henric nuper Comes Rutland nuper habuit a aver & tener le dit office al dit Thomas Markham pur term de son vie, & in verity le dit Henry Countee de Rutland ne unques avoit le dit office, & unẽ fuit resolve p eux q le grant fuit bone, p t q Quod demonstrandi causa (f) additur rei satis demonstrata frustra sit. Jussint si le Roy demise un Manor p special nosme, (g) quod quidem manerium nuper fuit in tenura sive occupatione Johãnis Stile, & in verity il ne unques avoit ceo, uncore le grant est bone,

(a) Cr. Jac. 34, 35.
6 Co. 55. b. Lane
13. Plowd. 191. b.
Cr. Car. 548. Yelv.

(b) Savil 48. Moor
45. Cr. Car. 548.
Dyer 87. pl. 101.
(c) 3 Keb. 413, 414
Godb. 423. Mod.
Rep. 197. 2 Co.
33. a.

(d) Cr. Jac. 34.

(e) Mich. 22 &
23 El. Tho. Mark-
hams Case.
Mod. Rep. 197.

(f) Dyer 87. pl.
101.

(g) 2 Co. 33. a.
3 Co. 10. a. Hob.
171. Plowd. 191. b.
Dyer 87. pl. 101.
Cr. Jac. 34. Moor
45. Yelv. 48. Cr.
Car. 548.

(a) Cr. Jac. 34.

(b) 11 Co. 87. a.

(c) 11 Co. 87. a.
74. b. 1 Co. 44. a.
Hob. 155. 21 E. 3.
47. a. b. Cr. Car. 548

(d) Devant 42. b.

(e) Devant 110. a.

(f) Palm. 83.

car in ceux cases le Roy nest deceibe in son title, ne in value que il intend a (a) granter, ne in le restraint que il pur son profit & avail intend a faire. Fuit auxy resolve, que la suit (b) diversity inter le case del Roy, & le case dun subject, car un subject que poet entendre son private, ne avoidera son grant in ceux ou autiels cases esseant faits sur faur insinuation ou suggestion ; mes le Roy q̄ intend le publique bien avoidera son grant in ceux cases jure regio, come est dit in (c) 21 E. 3. 47. a. b. in le Countee de Kents Case ; & ceo est un haute & grand Prerogative q̄ le Roy ad, q̄ q̄nt il fait aucun grant sur tiels faur suggestions come est avantdit, ceux sont voides in ley, issint q̄nt sur faur insinuations ou pretexts il fait aucun grant come dascun monopoly, &c. q̄ in verity est in prejudice del Roy & del bien publique, le Roy jure regio avoidera tiels grants, & tiels Letters Patents serē per Judgment del ley cancel. Et fuit dit que Perpetuities, Monopolies, & Patents de concealment fuerē nees delouth un unfortunate (d) constellation, car cy tost come ils avoient essē trahe in question, Judgment tous soit avoiet essē done encount eux, & nul al aucun temps done p̄ aucun de eux, & chescun de eux ad 2 inseparable qualities, cessalca-voir, estre troublesome & fruitles.

Quant al dit case in (e) 29 E. 3. 8. le case la est, q̄ le Roy esseant founder del Priory de Mountague (q̄ fuit Priory alien) le Roy per cause de guerre de France seist le dit Priory, & p̄ son Chart grant al William Mountague Countee de Salisbury le pier ladvowson, de m̄ le Priory a luy & ses h̄s, & auxy le gard de m̄ le Priory durant le guerē obe tous les appartenances & tous les profits q̄ a c̄ apperteyneront auxy intiremt come fuit in son maine, & puis le dit Countee morust William son firs & heir adonques deins age, a q̄ le Roy p̄ un auter Chartre grant omnes advocaciones Ecclesiarum quæ pertinent ad Prioratum de Mountague, tenend' usque ad legitimam ætatem prefati Willielmi, & quas nuper concessimus prefato Comiti Sarum patri, ou la est prise que ladvowson pertenant al dit Priory ne passer al pier p̄ les dits general parols : Et la Green Chief Justice dit, certes il semble que coment que le Roy unques nadoist grant les advowsons al Countee le pier, q̄ p̄ le 2 Chartre ils passer al dit William Countee le firs per ceux parols, car intant cōe il grant, &c. a tener tanq̄ a son plein age, comit que ceo que il die apres (les queux il grant a son pier) soit faur, (f) le grant est bone,

bone, mes Norton al encont; issint que le reason de Green fuit, pur ceo que les dits parols de restriction vient apres le Habendum, s. apres un plein & absolute grant; auxy si l'opinion de Green sert ley, le dit case est hors del reason & rule del case al bar come appiert devant. Et Mich. Jac. Regis, Judgment fuit done pur le Plaintife: sur que le Def. port Brief de Error, & letroz assigne fuit in le point adjudge, quel point fuit argue arere al barre & al bench, & Mich. 11 Regis Jac. le Judgment fuit affirm per totam Curiam, p le causes & reasons report devant. Nota Lectuer que Hill. Regina Eliz. un information fuit exhibite in Bank le Roy vs Hugh (a) Naughan pur intrusion in le scite del. jades Priory de Fryers Preachers in Langley Regis in le County de Hereford, & sur rien culp. pleade les Juroys donont un special Addit a ce effect: Rich. Priory del dit jades Priory añ 38 H. 8. obe le consent del covent, per lour fait inrolle surrend & grant al H. 8. ses Peires & Successeurs tous leur possessions, &c. per force de que & del Act de 31 H. 8. le Roy fuit seisie del dit scite, & 7 Febr. anno 31 H. 8. demise ceo per nosme del scite del dit jades Priory al suffragan de Dover pur son vie absque aliquo inde reddendo, & puis le dit suffragan morust, & le scite per mean discentis discent al Roign Eliz. & puis 27 Junii anno 8 Eliz. Commission fuit direct desouth Leschequer Seal a Willia Cook Armig & aus donat a eur authority a surveier le dit scite (inter alia) & a tifier in Leschequer in ql reparation t fuit, & ql lead, stone & iron fuet requisite a repaier t; que Commissioners le 3 jour de Septeber ensuat p force del dit Commission tifie in escript desouth leur Seals (inter alia) q fuit un ancient Eglise appteinat al dit jades Priory q fuit in grand ruine & decay, & fuit coñ ove lead ql lead valust 33 l. 6 s. 8 d. & le timber & stones fuit de petit value, &c. puis ql Certificat le lead timber & stones fuet vendue p le Treasorer & Under-treasorer del Eschequer añ 9 El. a un Webster p 33 l. 6 s. 8 d. q in Court del Eschequer conust le det: Et puis le dit Roign Eliz. 9 Aprilis Anno Regni sui 16. p les Letters Patents, ex certa scientia, mero motu, & gratia nra speciali, granta le dit scite del dit jades Priory inter aus al Edw. Grimston le pier & Edw. son firs & leur heirs desouth cest Proviso, semper quod si præd. præmissa aut aliqua inde parcella, aut redditus aut proficua eorumdem non sunt nec fuerunt ante 10 diem Aprilis Anno Regni nri 14 à nobis nec a patre, fratre, nec soror nostris cōcelat, subtracta,

(a) Hill. 36 Eliz.
Hugh Vaughans
Case in Bank le
Roy. Cr. Eliz. 507,
508. Moor 537,
538.

tracta, vel injuste detenta, & sic conceal subtraçt', vel injuste detent remanserunt usque prædictum 10 diem Aprilis anñ 14 supradicto, quo die præd. Edwardus & Edwardus, &c. suis propriis sumptibus & expensis ad revelationem inde fieri procuraverunt, quod tunc hæ Literæ Patentes quoad hujusmodi parcellam sic non concealatam, subtraçtam, vel injuste detentam vacuæ erunt. Et trobe ouster, que le Roigne ne unques prist ascun profit del dit scite forsq del dit Esglise come est avantdit, Et si, &c. Et fuit object, q le dit scite passera p les dits Letters Patents, pur ceo que comit q terra admit que le scite m ne poet esse dit esse conceal in cest case, & coment q le dit scite ne poet estre dit subtraçt ou injustment detent, uncore intant que les rents & profits de ceo fuet subtraçt, & injustment detent del Roigne, & les parols sont in le dysfunctione, aut redditus aut proficua eorundem, &c. a cest cause les dits Letters Patents fueront sufficient a passer le dit scite. Auxp fuit object, q le dit commission desouth le Eschequer Seal, nest pas ascun tiel autenticall record in Judgmet del ley a prover q le dit scite ne fuit conceal. Mes fuit resolve per totam Curiam, q sur le dit special matter trobe, le dit scite ne passa my p les dits Letters Patents. Et in cest case vi points fueront resolve. 1. Que qnt la est ascun record per que le certainty del terre le Roy (que nest pas in charge) issint particularint appiert, q les officers le Roy poient mitter ceo in charge (sans ascun respect al temps del dit record, issint q soit apres le tittle le Roy accrue) tiel terre ne unques poet estre dit conceal: come si home leisse del Manor de D. in fee p fait enrole grant le dit Manor al Roy H. 8. ses heirs & successors, & le Roy ou ascun de ses successors puis le dit grant ne unques avoient prise ascun rent ou profit de ceo, uncore cest Manor ne unques serf dit conceal: Issint in le case al barre, qnt le Roy demise le dit scite del jades Priory al suffragan de Dover p son vie (comit q riens soit reserve) cest scite ne unques terra dit in apres conceal, & sic de similibus. 2. Fuit resolve, q in case del Roy comit q un de son toxt prist les rents ou profits de ses terres, uncore m les rents ou profits ne poient esse dit subtraçt ou injustment deteine, car le Roy poet charger cestuy q prist les rents ou profits de ses terres cõe son baillie p (a) account render, car in le case le Roy le ley in tiel case fait pivity: & ove ceo accord 33 H. 6. 2. & 3. Et qnt le terre mesme nest pas conceal les dits pels aut redditus aut proficua eorum, &c. concealata

(e) 11 Co. 90. a.
92. b. 93. a. Cro.
Eliz. 221, 508. Br.
Accompt 8, 65. Br.
Bayly 25. Moor
476. Jenk. Cent.
226. c. 89. Plowd.
321. a. 440. 3 Co.
12. b. Godb. 292,
293, 297, 299.
2 Rol. Rep. 296,
297, 300, 302, 303,
304. Hardr. 25, 26.
7 Co. 21. b. 29. b.
8 Co. 171. a. 12 Co.
3. 2 Inst. 19. Lane
48, 108. 1 Ventr.
132. 2 Rol. 161,
156. Dyer 160.
pl. 41. 224. pl. 32,
33. 249. pl. 83.
295. pl. 10.

celata substract' vel injuste detent, &c. ne voient passer, car l'intention del Roy ne fuit a passer riens fors ceo que fuit conceal de luy, car autrement per pretence del Patente, si le lesee le Roy ad deteine son rent reserve sur son lease, ceo passera per les dits parols; quel fuit ousterment deny per tous les Justices, car nul tiel streyned construction terra prise in le grant le Roy, a passer son inheritance encounter le intention del Roy & le suggestion mesme del Patente. 3. Fuit resolve come devant in Shanes Case, que in m le case terre ne poet estre dit substract ou injustment deteine. 4. Que les dits parols ante decimum diem Aprilis anno 14 Eliz. terra in construction del ley prise pur tout le temps puis le darrein title del Roygne, jelsq al dit jour, & nemy pur un mois ou an, ou 2 ans, &c. sur que grand incertainty ensuera, mes tous temps puis le title le Roy jelsq al dit jour serf prise nient obstant les disjunctive parols subsequents a nobis, aut a sorore, fratre, vel patre nostris. 5. Que le dit commission desouth Leschequer Seal & le royaume de ceo fuit sufficient a instruer les officers le Roy a mitter le seite in charge, & ceo serve pur un sufficient record a cest purpose; mes office trove per force dun commission desouth Leschequer Seal nest sufficient a intitler le Roy in case battainder de felony, mortmaine, cessavit, ou semblables: *Int nota* (a) diversity inter office de instruction & office de intitling. Darraignment fuit resolve, que intant que le Roigne fuit respond dascun parcel del profits del dit seite, nul part de ceo poet estre dit conceal.

(a) 5 Co. 52. b.
56. b. Moor 199,
&c. 325. Co. Lit.
2. a. 117. a. B.N.C.
443. 4 Co. 58. a.
Cr. Eliz. 855. Cr.
Car. 173. 1 Jones
78, 79, 217.

Mich. x Jac. Regis.

Robert Pilfold's Case.

(a) Cro. Jac. 297.
Jenk. Cent. 288.

Robert (a) Pilfold port action de Trespas in Bank le Roy Trin. 7 Jac. Regis Rot. 795. vers Robert Dawks quare clausum & domum fregit a S. Olaves in Southwark in le County de Surrey ove continuando per long temps al damages del Plaintiff de 40 l. Le Defendant plead non culp. &c. quel issue fuit trie p Nisi prius pur. le Plaintiff & damages assesse occasione transgressionis prædictæ ad 49 l. & pur costs de suit a xx s. sur quel addit le Plaintiff al jour in Bank esteant le jour del retourne del Distring (b) remit 9 l. parcel del dit 49 l. assesse p damages, & pria Judgmt de 40 l. (a quel damage il ad count) ove increase de costs, & avoit, 9 l. de

(b) 11 Co. 56. a.
2 Bulstr. 279.
1 Rol. Rep. 88.
Jenk. Cent. 286.
Hob. 178. F.N.B.
107.b. 1 Rol. 784.

incremento adde p le Court, queux in tout amount a 50 l. & ad son Judgmt accordant : & sur ceo Dawks le Defendant port son Bief de Error in Leschequer Chamber : & in cest case fuit assigne p Error, q les damages & costs ensemble amount a plus q les damages alledge in le count, & fuit argue fortint que ceo fuit Error, car misa & custagia sont include deins cest parol damages ; & pur ceo ou lestatute de (c) 8 H. 6. done treble damages in Bief d'Entre in action sur lestatute, ou in assise, la les costs aury serra treble, & un lestatute done treble damages soleint, mes treble costs sont include deins cest parol damages : & ove t accord 14 H. 6.

(c) 8 H. 6. cap. 9.
Cro. Eliz. 582.
Cro. Car. 560.
Co. Lit. 257. b.

13.a. 19 H.6.32.a. 22 H.6.57.a. 12 E.4. 1.a.F.N.B.248.c. Et in 4 & 5 Ph.& M. 159.b. Domingo (a) Bilota port action sur le case des un Pointel p̄ E q̄ il sua luy devant l'admiral p̄ chose fait sur le terre, in quel case lestatute de 2 H. 4. c. 11. done al p̄ double damages sans p̄ler dascun costs, & uncoze la il recoy cibien double costs cōe double damages. Et in 18 E. 4. 23.a. les (b) Juroys poiēt assesser les damages & costs entier. mēt sils voilēt, car damages includont tout (c) 42 E.3.7.b. q̄ le p̄ recoy plus damages q̄ il m̄ ad count, & ove ceo accord 2 H. (d) 7.7. 9 El. Dyer (e) 25. b. Et in (f) 13 H. 7. 16. & 17. in Trespas le p̄ count al damages de 20 Marks & lenquest done 22 Marks p̄ costs & damages: Brian, cest bone p̄ 20 Marks, mes ils ne donera costs ultra le sum̄ des damages in le count, & alii concord: & ceo fuit dit fuit un case in le point, p̄ q̄ fuit conclude q̄ le Judḡnt a cest cause fuit erroneous. Mes al darreine fuit resolve p̄ tous les Judges del Common Bank, & Barons del Eschequer, q̄ le Judḡnt terra affirm. Et les reasons & causes de ceo jeo ay pense necessary a reporter a large. Et p̄ ē primerment, al (h) common ley devant lestatute de Glouc (q̄ fuit fait anno 6 E. 1. c. 1.) home ne recoy damages in aucun real action, come in (i) Dower devant lestatute de Herton cap. 1. nec in Aiel, Mortdancester, &c. devant le dit statute de Glouc, mes in actions mixt, come in Assise, (k) Entre in nature de Assise, &c. ou in personel action, come Trespas quare clausum fregit, des biens imports, &c. 2. Et q̄ in tous cases ou hōe (l) recoy damages il recovera costs, q̄ est intend de tous cases, ou il recovera damages ou devant le dit Act de 6 E. 1. ou per m̄ laet. 3. In tous (m) cases ou home, ou devant, ou per m̄ lestatute ne recoy damages, si, puis le dit act un auter statute in novel case done damages, ou single, ou double, ou treble, &c. la le Plaintiff ne recovera costs, car cest act est un act de creation que create & done recompence al Plaintiff, ou in m̄ le case nul recompence fuit done devant. 4. Mes auterist est, dun act de (n) addition, cessat: caboir, q̄ adde greinder recompence & satisfaction que fuit done devant tel act, car la ou damages & costs fuet done p̄ le common ley, mes laet increale les damages, la le Plaintiff recoy les damages increale p̄ lestat, & (o) costs aury: & p̄ ē in Quare impedit (p) damages sont done al p̄ p̄ lestat de W. 2. fait in 13 E. 1. c. 5. mes nul costs ser̄ la recover, p̄ ceo q̄ ceo est ait de creation q̄ novelment done recompence al

(a) 1 Rol. 517. Dyer 159. pl. 37, 38. 4 Inst. 141. Moor 892.

(b) 1 Rol. 517.

(c) 1 Bulstr. 49. Cr. Jac. 70.

(d) 1 Bulstr. 38. 2 H.6.7.a. 1 Rol. 578. Yelv. 70. Cr. El. 544. Cr. Jac. 70.

(e) Dyer 258. pl. 16. 1 Bulstr. 49.

(f) Apres 117. b. 1 Bulstr. 49. 1 Rol. 578. Cr. El. 544.

(g) 1 Rol. 578. Cr. Jac. 69.70. Yelv. 70.

(h) 2 Inst. 286. 1 Jones 434. Co. Lit. 285. a. b.

(i) 2 Inst. 289. Co. Lit. 285. a. b.

(j) 2 Inst. 289. Br. Cost 29.

(k) Dyer 370. pl. 61.

(l) 2 Inst. 289.

(m) 2 Inst. 289, 362. March. 29, 61. Cr. Car. 560. 1 Jones 434.

(n) 2 Inst. 289. March. 29, 61.

(o) Cro. Eliz. 582. 1 Vent. 133.

(p) 1 Jones 434. 2 Inst. 289, 362. Co. Lit. 17. b. 344. b.

5 Co. 59. a. 3 Inst. 156. 6 Co. 51. a.

Kelw. 26. a.

- al JP ou nul fuit recovable devât : & ove t accord 27 H. 6. 10.b. 2 H.4. 17.b. 9 H.6.66.b. Mes in action sur le statute de
- (a) 2 H. 4. c. 11. (a) 2 H.4. Mes cestuy q sue in admittalite p chose fait sur le fre, t est act de addition, car damages & (b) costs fues in tiel case recovable al comon ley : Vide p t 8 E. 4. 13.b. & 14.a. & le statute increafe les damages au double, & un t recova costs aury, car le statute in increafant damages ne tolle les costs. Jmint puis a m le Parliament al Glouc an 6 E. 1. c. 5. ac de
- (c) 1 Jones 438. (c) Wast est don, ou ne fuit forsq phibit ds ten in dower, &c. al comon ley, & nul damages sert recov in tmes p Wast fait puis le phibition delib, & ds ten p vie, ou p ans nul phibit gist, & p t lestat de 6 E. 1. c. 5. q don treble damages p wast fait devant le bre port & le lieu wast, est ley de creation & q don remedy ou ne fuit alc devât, & p t la nul costs sert recober : & ove t accord 2 H.4. 17.b. 9 H.6.66.b. & 19 H.6.32.a. & p t les liures in 5 H. 5. 13.a. & 5 E. 4. 7.a. sont malemt report. Mes in Ravishment de gard, q est ley de addition, s. q add le recovy del gard m ou le value de t, un t damages & costs sert aury recov, p t q acc gist al common ley p Ravishment de gard, in q le JP recova les damages & costs : & ove t accord 27 H. 6. 10.b. Jmint in acc p forcible entre in terres sur lestatute de 8 H. 6. ou in Assize p dissein fait ove force, la le JP recova treble (d) damages & les costs aury, p t q al common ley le JP recopera damages & costs in ambideur les cases, car cest stat nest forsq act de addition : & ove ceo accord 14 H.6. 13.a. 19 H.6. 32.a. 22 H. 6. 57. a. 12 E. 4. 1.a. F.N.B.248.c. Mes in Decies tantum, q est ley de creation, la le JP recova le penalty done p lestat & nient puis, car ceo est ley de creation, 2 H. 4. 17. b. Jmint sur lestat de 5 E. 6. de (e) Ingrossers, le JP ne recova costs mes solemt le penalty done p lestatute, p t q le party nad aucun remedy al common ley, 35 H. 8. tit. Damages 200. Brook.
- (d) 8 H. 6. cap. 9. 1 Jones 434. Lit. Sect. 431. 2 Inst. 289. F.N.B.248.c. Co. Lit. 257. a. b. 12 E.4.1.a.14 H.6. 13.a. 19 H.6. 32.a.
- (e) 5 & 6 E.6.c.14 March. 25.
- (f) Cr.Jac.69,429.
- (g) 2 H.4. cap.11. 8 H. 6. cap. 9.
- Cr. El. 568.
5. Est ascavoir, q cest parol (f) damna est prise in la ley in 2 sebal significacions, lun ppermt & generalmt & laut relative & stricte, propermt, cde in les cases queux ont est mise sur lestat de (g) 2 H. 4. & 8 H. 6. ou costs sont include deins cest parol, car damnum in son proper & general signification dicitur a demendo, cum diminutione res deterior fit, & in cest sens costs del suits sont damage al JP, car p eur res sua diminuitur. Mes qnt le JP mta le tort fait a luy a damage de tiel somme, t est dest prise relative pur le tort q est passe devant le bief port, & sont assesse occasione transgressionis prædictæ,

dicta, & ne poet extender al costs del suit q̄ sont future & dun
 aut nature, s. al legal expences, & dont nul certainty adon-
 ques poet est conus. Ilint ceux sont 2 distinct choses, s.
 damna pro injuria illata, & expensæ litis, & p̄ t̄ in les dits acts
 de p̄saint de (a) 2 H.4. & 8 H.6. ils sont prise in leur proper &
 general signification, & in favoz del JP̄ q̄ tous foits q̄nt il
 recō est favoz en ley; mes in le case al barre il est prise in s̄
 relative signification, regardant le tozt q̄ est passe, & ilint ils
 sont expressement assesse p̄ le Jury, & t̄ aury in favoz del JP̄:
 & suit bien observe le disticty int̄ p̄sonel actiōs, & real actiōs,
 in q̄ux damages sont destt recō; Car in p̄sonel actiōs ils
 countera aux damages, p̄ t̄ q̄ il recober damages soleint p̄
 le tozt fait devant le b̄ief port, & recobera nul damages p̄
 aucun chose fait pendant le b̄ief; mes in (b) real actiōs le de-
 mandant ne unqs countera aux damages, p̄ t̄ q̄ il est a re-
 cober damages pendant le b̄ief: & p̄ t̄ est tenu in (c) 33 H.
 6.47.a. en b̄ief dentre sur disseisin, ou in nature daffise, lou la
 p̄ty recobera damages, & un b̄ief est agard denquiter des
 damages, q̄ le JP̄ recobera damages del tēps del disseisin,
 jelsq̄ al tēps dagarder del b̄t denquiter des damages, & nemy
 apres, non obstante q̄ le b̄t denquiter ne suit pas serby apres
 7 ans pas, & issue soit join triable p̄ verdit, il recobera da-
 mages jelsq̄ del temps del disseisin, jelsq̄ al temps del d̄oit:
 mes in Præcipe quod reddat de rent del possession le d̄ot in,
 il recobera les arrearages arreēt auxy bien tous temps pendt
 le b̄t cōe devant, usq̄ diem Judicii redditi, p̄ t̄ q̄ il est son in-
 heritance: & obe t̄ accord 7 E.4.5a. vide 13 Ass. pl.2. 17 Ass.
 pl.10. 29 Ass. pl.59. 31 Ass. pl.31,33. 36 Ass. pl.2. 40 E.3.24.
 7 H.4.16.a. 16 H.7.5.a. 6.a.

Et sicōe in (d) real actiōs le d̄ot ne countera al damages,
 p̄ t̄ q̄ est in noncertain a q̄l sum les damages amouterà, p̄
 t̄ q̄ il recobera eux pendant le b̄ief; ilint in le case des
 costs ils serf recober p̄ les expences pendant le b̄ief, que
 esteant incertain ne poient estre comprehend in le Count, p̄
 t̄ q̄ le Count extend al damages passe & nemy al expences
 de suit. Et costs ne sont tous foits include deins cest pol
 damages; Car si trespas soit port vers 2 Def. & lun est
 trobe culpable a p̄ luy, & lautre culpable a per luy, & (e) da-
 mages sont seberalment assesse, uncoze les costs serra joint-
 ment tax: & obe t̄ accord 36 H.6.13.a. & 12 E.4.1.a. Et les
 lures in (f) 42 E.3. & 2 H.7. fuef bien agreē destt bone ley,
 cessascavoit, q̄ le JP̄ ne unqs recober (g) plusors damages
 que

(a) 2 H.4. cap.11.
 8 H.6. cap.9.

(b) 2 Inst. 286.

(c) Jenk. Cent. 6.
 Br. damages 14.
 Fitz. damages 34.

(d) 2 Inst. 286.
 (e) 11 Co.5 b. 7.a.
 Jenk. Cent. 269.
 Hob.66.1 Brownl.
 233. 1 Bulstr.157.
 Cr. Jac. 118, 349.
 384,385. Cr. Car.
 54, 243. 1 Rol.
 Rep.30,31. Cr.El.
 860.

(f) Plowd.91.a.b.
 42 E.3. 7.b. 2 H.
 6.7.b.

(g) Cr.Jac.69,297.
 Yelv. 45, 70. Cr.
 El. 544, 568, 866.
 1 Bulst.49. 1 Rol.
 578.

Robert Pilsolds Case. Part X.

(a) Cr. Jac. 69, 297.
Yelv. 45, 70. 1 Bul-
strode 49. Cr. Eliz.
544, 568, 866.
1 Rol. 578.
(b) Bulstr. 49.

(c) 1 Rol. 578.

(d) 1 Rol. 578.

(e) 1 Rol. 578. Cr.
El. 568.

(f) Devant 41. a.
5 Co. 25. a. Præf. 4
Rep.

(g) 9 Co. 14. a.
Perk. sect. 168.

que il ad (a) count, cessascaboit, damages p le toyt fait, mes
expense litis poient est addre a t: & p t (b) 34 E. 3. tit. Da-
mages 7. fuit deny destt ley, s. q in walt le p^r declare aux
damages de 10 l. & le Jury trove les damages al 20 l. & t
fuit treble, & le reason la rendue est, p t q le Statute de
Gloucester purblew, q le Def. face græ del treble de t q
le Wast est tax, mes lestatute est destt intend des damages
loyalmt tax: Et issint fuit tenus p le Seignior Dyer Trin'
10 Eliz. in Adion de Waste port per le Seignior Aberga-
beny q les Juroys ne poient valuer de Wast plus que le
Plaintiff ad alledge in son Count: & obe t accord Hill.
3 E. 4. Rot. 137. Et uncore in ascun case le Plaintiff reco-
vera plus damages q il m ad count, come in 8 H. 6. f. 5. a.
in (c) Detinue, le Plaintiff recovers plus damages q il
m ad count. Et quant al case de (d) 13 H. 7. f. 16 & 17. q
case ad estre cite hors del Abzdgmt de Brook, le liure alarge
fuit confesse destt bone ley; Car le case, come est la report,
est tiel: in byet de Trespas port p Darrel, il count aux
damages de 20 marks; le Defendant plead de rien cul-
pable, & taxeront les damages & costages de son suit joint-
ment a 22 marks, le quel est le principal case de mote in
mote, q est clere q le p^r ne poet estoier, car (e) quant est
p damages & quant pur costs ne appiert, & donqs poet ee q
ils ont done greinder damages q le Plaintiff ad count,
issint le verdit in incertainty: & pur t Brian bien dit q in
tiel case le p^r ne poet ad Judgmt forsq de 20 marks:
donqs tout t q ensue, nesc forsq le collection del Reporter
issint solong son opinion, & des auls les Juroys ne poient
doner costages ouster le summe des damages sur q le p^r
ad count, q collection nesc garrant per l'opinion de Brian,
car intant que les damages & costs suet jointment assesse,
le Plaintiff ne poet aver Judgmt forsq de 20 marks, pur
le incertainty, comt q costs poent est done ouster les dama-
ges in le Count. Et p t (f) abzdgmts sont de bone & ne-
cessary use a server cœ tables a troi les cases in les liures
alarge ou records, & nemy a funder alt opinio sur abzdg-
ment: p example, le case (g) 45 E. 3. f. 19, 20. ou le case fuit
q terres suet done al J. de C. obe un Johan le soer del do-
nor, Habendum eis & hæredibus suis imperpetuum, & Fitz. in
abzgeat le case tit. Tail 14. dit, q le done fuit adjudge s^r
simple & nemy Frankmarriage; & Statham in abzgeant le
case tit. Tail dit, q fuit adjudge q fuit estate in Frank-
marriage,

marriage, & Brook tit. Frankmarriage 1. Dit, Quære quia non adjudicatur: ideo satius est petere fontes quam sectari rivulos. Nota L'edeur le p'ncipal case adjudge p'imerent per le Court del Bank le Roy, & aps cest Judgint fuit affirme per tous les Justices del Common Bank & Barons del Eschequer, & le reco'd remand in Bank le Roy solong le statute.

Mich.x Jac. Regis.

Cheyneys Case.

In mesme cesty terme Nichols Serfeant mova cest case :
 Cheyney port bñef de valore maritagii, & issue fuit prise
 sur le tenure, & devant Justices de Nisi prius in le
 County de York fuit trove p le JP, & le Jury assesse
 40 s. damages & 10 s. costs, & ne inquire my del value del
 marriage come ils doient aver fait, & il mova que JP poet
 aver bñef denquiter del value a supplier le defect del Jdñ, &
 & il cite 2 presidents, lun Pasch. 3 Jac. Rot. 745. in Ravishñt
 de gard port p le seignior Barkly vs Will, le Def. plead non
 culpable, le Jury trove luy culpable, & que le heir fuit
 deins age & marry, &c. & assident damna & mis. & ne trovont
 le value del marriage, & bñef issint denquiter le value del
 marriage : & semblable bñef agard Trin. 38 Eliz. Rot. 1703.
 (a) 2 Rol. 722. & in 4 Maria, Dyer (a) 135. in Quare impedit port p Doyner,
 Dyer 135. pl. 12. issue fuit trove p le JP, mes p son negligence le Jury ne
 2 Keb. 409. fuit charge denquiter de quater points, cestascavoir, de
 plenitudine, ex cujus presentatione, si tempus semestre transi-
 erit, & le value del Elglise per annum, la le JP poet aver bñef
 (b) Dyer 241. pl. denquiter de ceur points, vide 8 El. (b) Dyer 241. 9 El. Dyer
 48. Hob. 152, 154. 260. Et le case fuit sobent foits debate, & al varf. ¶ Fuit
 2 Rol. 387. resolve q le Jdñ fuit insufficient : Car le Chief Justice dit,
 11 Co. 56.a. 2 Rol. 722. que

que in bñef de valore maritagii 3 (a) choses sont deff recoñ, (a) 9 Co. 72. a. cessascaboit, le value del mariage, damages & costs, quod fuit concessum p totam curiā. ¶ 2. Fuit resolve, q̄ comit q̄ lissue soit in cest case de valore maritagii sur le tenure, uncore, cōe sur un consequent ou dependant sur lissue, le Jury sont cōe pcel de lour charge sils trobont p̄ le JP̄ a enquirir del value del mariage, des damages & costs; & si le Jury assesse excessive value, ou excessive damages Attaint gist de t̄. Et p̄ 2 Rol. 722. t̄ in assise, si lissue soit join sur un releafe, & un mediate ouster confesse, la si lissue soit trobe p̄ le JP̄, uncore come parcel de lour charge les recognitoys del assise inquit̄ del seisin & disseisin, car t̄ est le point del bñef, & sur t̄ Attaint gist: & obe t̄ accord 11 H.4.27. 34 H.6.32.b. 16 Ass.pl. 1.16 E.3. Attaint 41. vide 32 E.3. tit. Cessavit 25. 33 H.6.25. Et in (b) Trespas vers 2, l'un vient & plead de rien culpable & est trobe culpable, in cest case cest p̄mier inquest assellera damages pur tout le trespass p̄ (c) ambideur Defendants; & puis l'auter (c) 11 Co. 5. b. vient & plead non culpable & est trobe culpable, le trober des damages p̄ le p̄mier inquest a q̄ il ne fuit party liera luy, & p̄ t̄ sils sont outragious & excessive, le Def. in le darreine inquest avera Attaint: & obe t̄ accord 44 E.4. f.7. & F.N.B. 107. E. J̄mint in trespass de quare clausum fregit, si lissue soit join sur un seoffment, & le Jury done outragious damages, (d) Attaint gist, car enquiry des damages est subsequent sur lissue & pcel de lour charge. J̄mint in le case al barre si le Jury ad trobe outragious value ou damages, Attaint gist de t̄. ¶ 3. Fuit resolve, q̄ le omission in le verdit ne serra (g) supply p̄ bñef denquirir de damages, car t̄ p̄ventera le JP̄ de son remedy per Attaint, q̄ ser̄ mischievous, car donques tiel omission poet estre de purpose a depriver le JP̄ de son Attaint. Mes le rule est que quant le court (f) ex officio doit inquirir d'alc̄ chose sur q̄ nul Attaint gist, la le omission de t̄ poet ēe supply p̄ bñef de enquirir des damages (cōe in le dit case de Quare impedit denquirir des dits 4 points, car de eux nul Attaint gist, cōe est tenus in (g) 11 H.4.80. p̄ t̄ q̄ q̄nt a eux lenquest nē foizq̄ de office) mes in tous cases q̄nt alc̄ point est omisse dont Attaint gist, la t̄ ne ser̄ supply per bñef denquirir des damages sur que nul Attaint gist, & pur ceo les presidents queux ont estre cite, & tous auters queux sont encounter ceux rules passent

2 Rol. 712.

2 Rol. 712.

sub silentio sans advisement del Court & encounter le rule de
Ley: & p ceo in Detinue si le Jurp trouve damages & costs,
& nul value come oportet, & ne sera supply per brief den-
quiter des damages pur le reason avantdit, & p ceo per le
rule del court novel Venire facias suit agard.

Trin. x Jac. Regis,

Rotulo 2413.

Le Case del Major & Burgeses de Linne
Regis, concernant misnommer des Corporations.

Johannes Paine nuper de Catton in Corn præd' generosus, execut' testament' Johann' Paine nuper dict' Johannis Paine de Linne Regis in Comitatu' Norff. Arm', suū fuit ad responden' Majori & Burgesibus de Linne Regis in Comitatu' Norff. de placito quod reddat eis tres mille libras quas eis injuste detinet, &c. Et unde iidem Maior & Burgeses p' Henricum Bastard Attornatum suum dic', quod præd' Johannes Paine testator in vita sua, vicesimo septimo die Januarii, anno Regni Dñi Regis nunc Angliæ, &c. sexto, apud Gaywood p' quoddam scriptum suum obligatorium concessisset se teneri eisdem Majori & Burgesibus in præd' tribus mille libris, solvend' eisdem Majori & Burgesibus cum inde requisit' fuisset, præd' tamen Johannes Paine testator in vita sua, Ac præd' Johannes Paine executor post mortem ipsius Johannis Paine testatoris, licet sæpius, requisit', præd' tres mille libras eisdem Majori & Burgesibus non reddiderunt, sed ill' eis reddere contradixerunt, ac prædictus Johannes Paine executor ill' eis adhuc reddere contradic' ac injuste detinet

tinet, unde dicit quod deteriorat' sunt, & dampnum habent ad valentiam centum librarum & inde producant sectam, &c. Et proferunt hic in curiam scriptum prædictum quod debitum prædictum in forma prædicta testatur, cujus dat' die & anno supradictis, &c.

Et præd' Johannes Paine executor p Thomam Blofield Attorñ suum veñ & defend' vim & injur' quando, &c. Et dic' quod ipse de debito præd' virtute scripti prædicti onerari non debet, quia dic', quod scriptū illud non est fact' præd' Johannis Paine testatoris, & de hoc ponit se super patriam, & præd' Major & Burghenses similiter: Ideo præcept' est Vicecom' quod venire faciat hic a die Scæ Trinitatis in tres septimanas duodecim, &c. p quos, &c. Et qui nec, &c. Ad recogn', &c. Quia tam, &c. Ad quem diem Jurata inter partes præd' de præd' placito posita fuit inde inter eas in respectū hic usq; ad hunc diem, scilicet in O-ctobas Sc'i Michaelis tunc proxim' sequen', Nisi Justic' Dñi Regis ad Assisas in Comitatu præd' capiend' assign' p formam Statuti, &c. die lunæ vicesimo septimo die Julii proxim' præterito, apud Castrum Norwich, in Comitatu præd' prius, venissent, Et modo ad hunc diem ven' tam præd' Major & Burghenses, quam præd' Johannes Paine executor p Attorn' suos præd', & præfat' Justic' ad Assisas, coram quibus, &c. mis. hic recordum suum in hæc verba, Postea die & loco infracontent' corā Edwardo Coke Milite, Capitali Justic' Dñi Regis de Banco, & Johanne Croke Milite uno Justic' dicti Dñi Regis ad placita coram ipso Rege tenend' assign' Justic' ejusdem Dñi Regis ad Assisas in Comitatu præd' capiend' assign', p formam statuti, &c. ven' tam infranominat' Major & Burghenses, quā infra script. Johannes Paine executor p attorn' suos infracōtent', Et Jur' Jurat' unde infra fit mentio exact. sifit veñ, qui ad veritatem de infracōtent' dicend', electi, triati, & jurati, dicunt super sacramētum suū, quod diu ante confectiōē scripti obligatorii infraspēc', Dñus Henr' nup Rex Angliæ octavus, septimo die Julii anno Regni sui vicesimo nono, p literas suas patentes sub magno sigillo suo Angliæ sigillat' gerent' dat' apud Westmonasteriū eisdem die & anno, Ac Jur' in præd' in evidentiis ostens. recitand' p easdē literas suas patentes, quod cum idem nup Rex p literas suas patētes quarū dat' fuit vicesimo septimo die Junii añ regni sui sextodecimo, de gratia sua speciali, ac ex certa scientia, & mero motu suis, nup concesserat & p easdem literas suas patentes cōfirmasset, p se hæredibus & successoribus suis, Majori &c.

& Burgenfibus & Inhabitantibus Burgi fui in Linne Epi de Comi suo Norff. qd' ipfi in ppetuū effent unum corpus corporatū, & una cōmunitas ppetua in re & nomine, & qd' haberēt fucceffionē ppetuā, ac nomen Majoris & Burgenf. Burgi præd' Linne Epi in Com' Norff. haberent & gererent, Et p idem nomen effent pfonæ habiles & capaces in lege, ad habend' & pquirend' t'ras, tenemta, bona & catalla, ac alias poffeffiones quascūq; ac pfitare & implacitari, refpōdere & refpōderi, defendere & defendi potuiffent & valerēt, corā quibuscunq; Juftic, five Judicibus fpiritualibus five tēporalibus in quibuscunq; curiis, ac in oibus & fingulis actionibus, caufis, maffis, querelis, & demaund' cujuscunq; generis forent five naturæ, eodem modo quo cæteri ligei dicti nū p regis, pfonæ habiles & capaces in lege placitare & implacitari, refpondere & refpōderi, defendere & defendi potuiffent, quodq; dict' Major & Burgenfes & eorū fucceffores hērent aut habere potuiffent unū cōmune figillū p negotiis fuis & aliis agend' infra Burgū præd' de tempore in tempus, contingēti five emergent' deferviens, cū diverfis aliis libertatibus, frāches. concessionibus, articulis & immunitatibus in eisdē literis fuis pateñ cōtenf & fpecē, put in eisdē literis fuis pateñ plenius ac manifestius liquebat & apparebat, ac cū poftea p quodd' statutū nū p in parliamēt' ipfius nū p regis apud Lond' tenf, tertio die Novēb' afi regni fui viceffimū primū & abinde adjornū ufq; ad Weftm' & ibid' tenf, & de tēpore illo continuat p diverfas progationes ufq; quart' diē Februaf anno regni 27 & tunc & ibid' tenf, inter cæta inactitat' fuiiffet, qd' dict' nū p rex hæredes & fucceffor' fui reges Angl' haberēt, tenerent & gauderent fibi in ppet' dominia five maneria de Linne Epi, alias dict' Bifhops Linne & Gaywood int' alia cū oibus & fingul' fuis ptiñ, Necnon oēs libertatē, frāches, bona & catalla, waivaif & extrahuif, viif. franc' pleg', cur', pficua cur', ac omnia & fingula alia tēporalia poffeff. & hæreditament' cum ptiñ in Linne Epi & Gayw. præd', q nū p ante tunc ptiñuiffet nū p Efo Norwici, Et quæ idem nū p Epus hūiffet in jure nū p Epatus fui præd', put in eodē actu plenius liquebat, dictus nū p rex Henricus octavus, p eo quod p eundē actum, hujufmodi maneria & poffeffiones fibi & hæredibus fuis Regibus Angliæ enactabantur & fuerunt, voluit & ordinavit, ac p eadē literas fuis patentes declaravit, p fe & hæredibus fuis, quod eadem villa de Linne Epifcopi de cætero imperpetuum nuncuparetur, vocaretur, & nominaretur Linne Regis, vulgarit' nuncupat' Kings Linne, & non p af nomen, Et quod hujufmodi nomen de Linne Epifcopi alias Bifhoppes Linne de cætero

Le Cafe del Maior, &c. Part X.

cætero destituereſ, & deprivaretur, Et ulteſ dict' nu p rex H. 8. ex gratia ſua ſpeciali, & mero motu ſuis, ac ob amorē quem erga præd' dilectos fideles ſubditos ſuos Majorem & Burgenſes Burgi ſui de Linne præd' in Comitatu ſuo Norfolk. & Burgū illū & Inhabitantes ejusd' habuit & geſſit, cupiēs in ſu p bonā pacis quietem & tranquillitatē in eodē Burgo continue haberi, ac de tēpore in tēpus augmētari, ex quibus omnia pſpera, utilitates, & cōmoda ſuum indubitatē capiunt exordiū, conceſſiſſet, ac per eaſdem literas ſuas patentes, cōceſſit p ſe hæredibus & ſucceſſoribus ſuis, præd' Majori, Burgenſibus & Inhabitantibus Burgi ſui præd', quod ipſi de cætero imperpetuum nomen Majoris & Burgenſ. Burgi ſui de Linne Regis vulgariter nuncupaſ Kings Linne in Comitatu ſuo Norff. haberent & gererent, Et p idem nomen vocarentur & nominarentur, Et non p aliud nomen, & qd' p idē nomen eſſent pſonæ & habiles capaces in lege ad habend' & pquirend' ſras & teſita, bona & catalla, & alias poſſeſſiones quaſcunq; ac pſitare, & impſitari, reſpōdere & reſpōderi, defendere & defendi potuiſſent & valerent, corā quibuſcūq; Juſtic, ſive Judicibus tēporalibus ſive ſpiritualibus in quibuſcunq; curiis ac in omnibus & ſingulis actionibus, cauſis, materiis, querelis, & demand' cujuſcunq; generis forent ſive naturæ, eodem modo quo cæteri ligei dicti nu p regis pſonæ habiles, & capaces in lege placitare & implacitari, reſpōdere & reſpōderi, defendere & defendi potuiſſent, put p eaſdem lſas patentes Juſt p d' in evidēciis oſtenſ. inſ alia plenius liquet & apparet. Et ulteſ Juſt præd' dicunt ſu p ſacm ſuū præd', qd' poſt cōſectiōē lſarū patentium p d', ſcilicet, præd' viceſimo ſeptimodie Januarii, anno regni dñi regis nunc Angl ſexto inſcripſit, p d' Johānes Paine teſtator in vita ſua ſcripſit obligatoriū in narration' inſcripſit ſpec fecit, ſigillavit, & ut fact' ſuum deliberavit pſat' Majori & Burgenſibus Burgi dñi regis de Linne regis vulgarit nuncupaſ Kings Linne in comitatu ſuo Norff. in præd' liteſ patentē nominat, p nomē Majoris & Burgenſ. de Linne Regis in comitatu Norff. Sed utrum ſu p tota materia præd' p ipſos Juſt in forma præd' cōperſ ſcripſit obligator' p d' in narratione inſcripſit ſpec ſit fact' p d' Johis Pain teſtat necne, iidē Juſt penitus ignorāt, Et inde pet' adviſamūt Juſtic & cuſ hic, &c. Et ſi ſu p tota mater' p d' p ipſos Juſt in forma p d' cōpſt videbit Juſtic hic qd' ſcripſit p d' in narratione inſcripſit ſpec ſit ſcōm p d' J. Pain teſtat, tunc iidē Juſt dic' ſu p ſacramtū ſuū præd', qd' ſcripſit p d' eſt factum p d' J. Pain teſtatoris, Et tunc aſſid' dampna p d' Major & Burgenſ. occasione detentiōis debiti inſpecificat, ultra mil. & cuſtag' ſua per

per ipsos circa sectam suā in hac parte appositā, ad duodecim denarios. Et p̄ mis. & custag̃ illis ad duodecim denes, & si super tota materia præd' p̄ ipsos Jus in forma præd' cōperta videbitur Justic' hic, quod scriptum præd' non sit factum præd' Johannis Paine testatoris, tunc iidem Jus dicunt super factum suum, quod scriptum præd' non est factum præd' Johannis Paine testatoris, prout præd' Johannes Paine executor interius placitando allegavit: Et quia Justic' hic se advisare volunt de & super præmissis priusquam judicium inde reddāt, dies dāt est partibus præd' hic usque de audiendo inde judicio suo, eo quod iidem Justic' hic inde nondum, &c.

Mich.

Mich.xi Jac.Regis,

Que est inter Trin. 10 Jac. Rot. 2413.
in Communi Banco.

Le Cafe del Maior & Burgesſes de Linne
Regis, concernant miſnoſmer des Corpo-
rations.

1 Bronwlow 57.

LE Maior & Burgesſes de Linne Regis in Com
Norfolk, poſt action de Det vers John Pain Gent
executoꝝ de John Pain Eſquire ſur obligation fait
p le teſtatoꝝ aux plaintiffs 27 Januarii anno 6 Jac.
Regis in 3000l. Le Def. plead nient le fait del teſtatoꝝ, &c.
& les Juroꝝ done ſpecial verdict : Le Roy H. 8. 7 Junii
anno Regni ſui 29. p les letſſ patents deſouth le grand ſeal,
recitant q meſme le Roy per les letters patents 27 Junii
anno Regni ſui 16. ad grant al Maior & Burgesſes & inha-
bitants Burgi ſui de Linne Episcopi in Comitatu ſuo Norf-
folk. quod ipſi imperpetuum eſſent unum corpus corporatum,
& una communitas perpetua in re & nomine, & quod habeant
ſucceſſionem perpetuam, ac nomen Maioris & Burgenſium
Burgi præd' Linne Episcopi in Comitatu Norfolk. haberent
& gererent, & per idem nomen eſſent perſonæ habiles & ca-
paces in lege, &c. & per meſme les letters patents, recitant
que

que l'on per Act de Parliament, 4 Februarii anno 27 H. 8. fuit enact, que le dit Roy, les heirs & successors Roys Dengleterre averont les Manor de Linne Episcopi & Galtwood, inter alia, le dit Roy p mesme les Letters Patents declare, quod eadem villa de Linne Episcopi de cetero vocaretur, & nominaretur Linne Regis, vulgariter nuncupat Kings Linne, & non per aliud nomen, & grant al dit Manor, Burgesles & Inhabitants Burgi sui predicti quod ipsi imperpetuum nomen Majoris & Burgensium Burgi sui de Linne Regis vulgariter nuncupat Kings Linne, in Comitatu suo Norff. haberent & gererent, & per idem nomen vocarentur & nominarentur & non per aliud nomen, & quod per idem nomen essent personi habiles, &c. & les Juroys trovont ouster, que 27 Jan. anno Regni Regis Jacobi 6. predictus Johannes Paine Testator in vita sua predictum scriptum obligatorium fecit, sigillavit, & ut factum suum deliberavit prelat Majori & Burgensibus Burgi Domini Regis de Linne Regis, vulgariter nuncupat Kings Linne in Comitatu suo Norff. per nomen Majoris & Burgensium de Linne Regis in Comitatu Norff. sed utrum super tota materia, &c. predictum scriptum obligatorium in narratione specificat sit factum predicti Johannis Paine Testatoris necne, iidem Juratores ignorant, & inde petunt advisamentum Justiciariorum & Curie, &c. Et cest case fuit sovient fois argue al Barre. Et fuit object del part del Defendant, que le dit Obligation (a) varie del voier & droit nosme del Corporation, & p consequence fuit nient le fait le Testator; & le material variances fueront pur t que ils fueront incorporeate p nomen Majoris & Burgensium Burgi Domini Regis de Linne Regis, &c. & le obligation fuit fait al eux per nomen Majoris & Burgensium de Linne Regis, omissant, apres cest parol Burgensium, ceur deux parols (b) Burgi Regis, que sont parcel del nosme del incorporation: & fuit observe per eux primerment, q le nosme del Corporation est semblable al proper (c) nosme ou nosme de Baptisme: 2. Apres que le Roy ad done a eux leur nosme, donques est adde, Et quod per idem nomen vocarentur, &c. 3. Parols negative sont adde aux dit parols affirmative, & non per aliud nomen: mes l'obligation varie del proper nosme del Incorporation, & n'est fait per idem nomen, mes per aliud nomen, directement encounter le Wyel & intention del Chartre le Roy. Et fuit forment urge, que le (d) lieu del Incorporation est del essence dun Incorporation, car sans lieu nul Corporation poet estre foundue,

(a) 11 Co. 20. a.

(b) 1 Brownl. 57.

(c) 10 Co. 28. b.
1 Rol. 512. 38 E. 3.
15. a. 21 E. 4.
56. a. b.(d) 10 Co. 29. b.
1 Rol. 512. Plowd.
150. a.

Le Case del Mayor, &c. Part X.

foundue, & le lieu est le principal part per que le incorpotation poert estre conus & distinguishe des auters; & p^r poert estre aptement resemble al visage dun home, le quel est le principal part per qⁱ il est conus & discerne: & p^r un case fust cite Mich. 29 & 30 Eliz. in Leschequer in Ejectione firma, in qⁱ (a) Mariet fust Plaintiff & Paschal & auters De-

(a) Mich. 29 & 30 Eliz. in Leschequer, le case del Hospital del Savoy. 1 Ander. 202. Hob. 125. 1 Leon. 159. Moor 228, 865. Devant 32. b.

fendants dun demise fait per Cha. Farnhawe At Remembrancer le Roigne de la Court de Leschequer de certain fress in Denge in le County de Essex, &c. & sur rien culp. pleas les Juroys donont un especial Verdict a cest effect: Le Master & Chapleins de le Savoy fust incorpote per nomen Magistri & Capellanorum Hospitalis Henrici nuper Regis Angliae septimi de Savoy, p^r force de Traint Letters Patents faits Anno 4 H. 8. & le Master & Chapleins del dit Hospital estant seisse in fee del Manor del Denge in Corn Essex, dount les terres in queux fust parcel, Anno 2 E. 6. per fait indent demisont le dit Manor al John Paschal pur 99 ans, p^r nomen Magistri Hospitalis Henrici Regis Angliae septimi vocati le Savoy & Capellanorum ejusdem Hospitalis, & si cest lease fust fait solongz lour voier nosme del coporation fust le question; & fust adjudge in Leschequer, que le lease fust void, pur ceo qⁱ ils ont mispise lour nosme del coporation in le plus material part de ceo, cestascadoit, in le lieu, car le voier nosme est Hospitalis, &c. de (b) Savoy, & in le demise est Hospitalis, &c. vocatur le Savoy, & la material variance, in respect qⁱ de signifie le lieu m^e, & vocatur signifie un nosme, qⁱ poert estre applie al autre lieu, come Prior & Confratres Hospitalis Sancti Johannis de (c) Jerusalem in Anglia, & plusieurs autres cases come del mount Carmel, Bethlem, & auters, qⁱ in verity sont in la terre de Canaan, & unt sont applie al certain lieux in Anglittere, tous qⁱz poert veier devant cite in le case del Hospital del Charter-house, & pur t^r jeo ave omette euz icy. Et fust dit, qⁱ sur le dit Judgint Brief de Error fust port in Leschequer Chamber, ou le case fust argue arere sobent fotts al barre, & uncoze le dit Judgint ne unqs fust (d) recte. Munt in le case al barre, intant qⁱ cest pol Burgi est omise, qⁱ est le lieu del incorporation, t^r est tuel material variance que le Obligation est void: Et coment que est dit de Linne Regis, uncoze ceo bien prove qⁱ t^r est un ville, mes per ceo nappiert qⁱ ceo est un Burghe, car (e) chescun Burghe est un ville, mes chet vill n'est pas un Burghe. Et p^r ceo Litt. lib. 2. cap. 10. de Burgage dit, Est ascadoit (f) qⁱ les

(b) Moor. 865. Hob. 125.

(c) Devant 32. a. b.

(d) Hob. 125.

(e) Co. Lit. 109. a. 110.

(f) Co. Lit. 109. a. b. Lit. sect. 164.

les ancient villes appel (a) Burghes sont le plus ancient
 villes q̄ sont deins Anglitterre, car ceux villes q̄ sont ore
 Cities ou Counties, in ancient temps fues Burghes & ap-
 pel Burghes, car de tiels ancient villes appel Burghes
 veignent les Burghesses al Parliament q̄nt le Roy ad summon
 son Parliament. Item pur le greinder part tiels Burghes
 ont divers Customs & usages queux nont pas auters villes,
 &c. per q̄ appiert manifest d'icelle in Judgment del ley inf un
 Burgh & un ville; & l'opinion de Cavendish Chief Justice
 in 40 Ass. pl. 27. fuit cite, ou il tient q̄ tous les ancient
 Burghes, sont de Record in Leschequer: & ove Littleton ac-
 cord, 43 E. 3. 32. a. 21 E. 4. 53. b. & 54. a. 21 H. 7. 15. b.
 per Frowike, &c. Autre variace fuit observe, q̄ cest pol Regis
 fuit omit, car le voir nom del corpozat est Burgi sui de Linne,
 f. Burgi Regis de Linne, & in le obligat non solemnt Burgi est
 omit, mes Regis auxy, q̄ (come fuit urge) fuit auxy un ma-
 terial variace, car Regis cobiet est 2 foies adde, cestascavoir,
 Burgi Regis de Linne Regis; & p̄ le Case de (b) Eaton Col-
 ledge, Tr. 3 & 4 Ph. & M. Dyer f. 150. fuit cite ou appiert
 q̄ le Roy H. 6. incorporate le dit Colledge p nomen Præpositi
 & Collegii Regalis Collegii beatæ Mariæ de Eaton juxta
 Windfore, & in temps E. 6. Sir Tho. Smith Chevalier esteant
 Provost la, un lease fuit fait p nomen Præpositi & Sociorum
 Collegii Regalis de Eaton juxta Windfore, ommittat Collegiū
 in le pr̄sent lieu, & uncore in le 2 lieu Collegii Regalis fuit
 adde, & p opinionem omnium Justiciar̄ t̄ fuit void lease, &
 sic adjudicat fuit Mich. 19 & 11 Eliz Regina. Int̄ in le
 case al barre le omission de cest parol Regis in le pr̄sent lieu,
 com̄t q̄ t̄ soit observe in le 2. fait un material variance. Plus-
 lors aus cas fues mise sur le general ground de misnos-
 mer des corpozations, q̄ur seo de purpose aye omise, p̄ t̄ q̄
 ceux cases que cy sont mention, fues le plus material, &
 tous les auters ser̄t generalmt cite ove reference al liures
 a large in le fine de cest case. Mes le Court tient le dit ob-
 ligat bone, & q̄ les Plaintiffs doient aver Judgment a recō.
 In quel case 2 points fues (c) resolve. ¶ 1. Quant a ceux
 parols p idem nomen, & non p aliud, que cest parol idem
 ad deux significacions, cestascavoir, idem syllabis & verbis &
 idem re & sensu, & ne besoigne que le nome de corpozation
 soit in grants ou conbeyances idem syllabis & verbis, mes
 suffit si soit idem re & sensu: & accordant a ceux signifi-
 cacions divers cases avoient este resolve & adjudge, Mich.

(a) Lit. Sect. 164.
 Co. Lit. 109. a. b.

(b) Moor. 13.
 Anderl. 23.
 Dyer 150. pl. 84.
 Leon. 159.
 Jenk. Cent. 214.
 cap. 54.

(c) 1 Brownl. 58.

Le Case del Mayor, &c. Part X.

- (a) Mich. 10 Eliz. 10 & 11 Eliz. Dyer 278. le Dean & Chapter de (a) Carlisle
 le case de Dean & Chapter de Carlisle fues incorporate an. 33 H.8. p le nom de Decanus & Capitulum
 Ecclesie Cathedralis sancte & individue Trinitatis Carliensis,
 Moor 233. 1 Anderf. 203, 206, 208. & ils font lease p ce nom Decanus Ecclesie Cathedralis sancte
 1 Leon. 159. Dyer Trinitatis in Carlisle & totum Capitulum de Ecclesia præd' ; q
 278. pl. 1. 2 Bullftr. lease nest pas fait p idem nomen qd' est idem syllabis seu verbis,
 303. Jenk. Cent. 235. car 1. ce pol individue est omittre, 2. in Carlisle, ou le voit
 nom est Carlisia, s. de Carlisle, 3. ce pol totu est add, 4. le
 order des pols ne pas observe, car le voier nome de corporat
 est Decan & Capitulum Ecclesie Cathedralis sancte & individue
 Trinitatis Carliensis, & le lease est, Decanus Ecclesie Cathedralis, &c.
 & totum Caput de Ecclesia præd' : mes hiis non obstant' fuit re-
 sol' p Dyer, Weston, Welsh, Southcot, Carus & Harper q lease
 fuit assens bœ niēt obstat' ceur variâces, & le reason est la ren-
 due, p q ceur variâces ne sont pas in le substance del nom.
 In Mich. 29 & 30 Reg. El. int' Hall & Tlingat, in Ejectione
 firm in Bank le Roy, le case fuit, q le Dean & Canons (b) de
 Windso' fues incorporate p Act de Parliamt in an 22 E. 4. p
 ce nom, The Dean and Canons of the Kings free Chappel of
 St. George the Martyr within his Castle of Windsor, & in tēps
 del Reign del Roy & Roigne P. & M. ils font lease de tēain
 fies p ce nom, The Dean and Canons of the King and
 Queens free Chappel of St. George within the Castle of Wind-
 sor : Et in ce case 3 variâces fues observe, 1. ou le nom de
 corporat fuit p lant de 22 E. 4. The Dean and Canons of the
 Kings free Chappel, le lease fuit fait p nome de Dean and
 Canons of the King and Queens free Chappel, &c. 2. ou le in-
 corporat fuit of St. George the Martyr, le lease fuit of St. George
 omittat le Martyr, le 3. fuit within his Castle, s. within the
 Kings Castle of Windsor, Et fuit adjudge q in ce case l'un de
 eux fuit variâce in substâce, s. (c) of the King and Queens free
 Chappel, car le voier nom del corporat p le dit Act de 22 E. 4.
 fuit of the Kings free Chappel, & comit q al tēps del seignans
 del dit demise, in City le Chappel fuit the King and Queens
 free Chappel, un le corporat doit est' tiel q fuit done p le
 found, & ne fer' al' p le alterat' del nome del found ou del
 owner del Castle, cœ si un Colledge soit incorporate in tēps
 E. 6. p le nom de Master & Fellows de Kings Colledge, ils
 font lease in le Reign le Reign Eliz. ils ne poiet fait lease p
 le nom de Master & Fellows de Queens Colledge : mes p
 les auts 2 variâces le Court resolve, q ils fues variâces in
 Matres & pols & nēp in substâce, & (d) parū differēt quæ re
 concor-
- (b) Mich. 29 & 30 Eliz. in Bank
 le Roy, le case del
 Dean & Canons
 de Windsor.
 Palm. 494. 1 Leon.
 162. Moor 230.
 n. 232. 1 Rel. Rep.
 229. Hob. 124.
- (c) Moor 230.
 Hob. 124.
- (d) 1 Leon. 160.
 5 Co. 4. b. 2 Bullf.
 53, 86.

concordant, car St. George include le Party, cōe le Trinity
 imply & include cest adjectiue individua, & deins (a) his Castle (a) Moor 71, 72.
 of Windsor, & deins the Castle of Windsor, est tout un in sub-
 stance & effect. In q̄l case le Chief Justice fuit accouncel ove
 Wīngate, & in un autre auxy in q̄ Wīngate fuit Plaintife &
 Judgēt fuit done p̄ luy in ambideux, Hill. 30 Eliz. in Bank
 le Roy inter Henry (b) Fisher Plaintife in Ejectione firmæ (c) Hill. 30 Eliz.
 & William Bois Defendant de certain terres in Chiam in le case de Merton
 Kent le case fuit ; per Ad de Parliamt anno 1 Maria, un Colledge in Ox-
 Colledge in Oxford fuit incorporate per nomen Gardiani & ford in Bank le
 Scholarium domus sive Collegii Scholarium de Merton in Uni- Roy, 1 Leon. 162.
 versitate Oxonia, & ils sont lease des dits terres per nomen 11 Co. 20. a. b. Hob.
 Custodis Domus sive Collegii de Merton in Oxonia & Scho- 125. Lane 15, 34.
 lar ejusdem Domus : Et in cest case 4 variances fuent ob- Moor 266. 1 An-
 serve, 1. Pour cest parol Guardianus, Custos, 2. Qu le voier derf. 196.
 nosme del Colledge fuit Domus sive Collegium Scholarium de
 Merton, le lease fuit per nomen Domus sive Collegii de Mer-
 ton ommittant (c) Scholarium, 3 Pour in Universitate Oxoni le (c) 11 Co. 20. a
 lease fuit in Oxoni, 4. Scholares fuent misplace, car ils veig- 1 Bullfr. 91. Hob.
 nōt in le fine, ou in laci ils sont nosm immediatēnt apres le 125.
 Gardian : Et fuit adjudge q̄ p̄ le 2 variance ē fuit un vari-
 ance in substance, car le dit act ad baptize le Colledge per le
 (d) nosme del Colledge des Schollars de Merton, & ils ount (d) Cr. El. 106.
 fait lease p̄ nosme del Colledge de Merton m̄, q̄ in verity fuit
 le founder ; mes p̄ Gardianus est Custos, & p̄ le Unīversīty de
 (e) Oxford & Oxford, ils sont tout un in effect & substance, & (e) Cr. El. 338, 339
 p̄ ē nul material variances ; & p̄ le misplacing des dits pa- Moor 361. 1 An-
 rols ē nest material, dummodo proprius sensus remanet. Et derf. 196.
 le Chief Justice fuit accouncel ove le dit Colledge encounter
 le dit lease. Jūint in le case al barē les dits variances sont
 solemt in syllabis & verbis, & nemy in (f) sensu & re ipsa & p̄ (f) Cro. El. 106.
 ē sont nient material, car per idem nomen terra intend idem
 sensu & re, & non per aliud, i. aliud sensu & re. Et est asca-
 voir, q̄ in le case al barē ceur parols Burgenfes de Linne
 Regis (g) impliont q̄ Linne Regis est Burgus, car Burgus & (g) Hob. 125.
 Burgenfes sunt conjugata, & cōe Litt' dīst ubi supra de Burghes 1 Rol. Rep. 118.
 veignent les Burghes, &c. & Linne Regis impliont auxy que
 ceo est Burgus fuus, i. Regis ; & ceur p̄dīs vulgariter nuncupať
 Kings Linne sont include deins ceur parols Linne Regis, is-
 sint que le nosme in le obligation per matter apparant in ceo
 import affets certain demonstration del voier nosme del

Le Cafe del Mayor, &c. Part X.

(a) 1 Anderf. 203,
204, 208, 220. Cr.
El. 338. L. 5 E. 4.
20. b. 1 Leon. 163.
Br. Variance 75.

incorporation. 5 E. 4. 10. b. labbot (a) de York fuit incorpo-
rate p cest nomme, Abbas Monasterii beatae Mariae Eborum,
& un obligation fuit fait al Abbot per nomme Abbati Mona-
stef beatae Mariae extra muros Civitatis Ebof, & coment que
labbey fuit extra muros Civitatis Ebof uncoze p t q in verity
ceo fuit deins York, lobligation fuit bone, & p t labbot la
pozt son bzief de Det per son voier nomme, & in son count il
dit q le obligation fuit fait al p t per nomen, &c. q imply in
luy averint q labbey fuit deins York, & le b t fuit agard bone
bzief per lopinion de tout le Court, & un t la fuit plus va-
riance in syllabis & verbis que in le case al barre, mes p t q
in verity & substance, come appiert p averint dehoys, tout
fuit un in effect lobligation fait a euz fuit bone, & uncoze le
nomme in le obligation ne import de luy in le voier nomm del
corpozation sans averint dehoys: Et p t in pleadant ou in
un special verdit, in plusors cases, si per expres averint ou
p trovant del Jury, serra fait apparant al Court que le
voier nomme del incorporation & le nomme in le lease, grant,
&c. sont tout un in effect, ceo boet mult infozcer le matter
coment q in p ois soit aucun semblance de difference; & p t
fuit bien trove in le special verdit in le case al barre, q le dit
John Pain le Testator pradietum scriptum obligatorium fe-
cit, sigillavit, & ut factum suum deliberavit prafatis Mayo-
ri & Burgenfibus Burgi Domini Regis de Linne Regis vulga-
riter nuncupa King's Linne in Comitatu suo Norff. (q est le
nomme del corpozation sans aucun manner de variance) per
nomen Majoris & Burgenfium de Linne Regis in Comitatu
Norff. q (b) import tous averments requisite per la ley, in
cest case. Et est bien obferve in Sir Moile Finch's Case in le
6 part de mes Reports, fol. 65. a. que jelsq cest generation
de tardiffe temps ne unques fuit lie in aucun de nostre liures,
que aucun corps politique ou corpozate indeboz ou attempt p
aucun fuit davoider aucun de leur leases, grants, convey-
ances, ou auters de leur faits demesne, ne dascun auter
de grants, &c. faits a euz p le misnomm de leur very nomme
de corpozation. Mes apres q un windowe fuit open a do-
ner euz light davoider leur grants demesne pur le misnom-
mer de euz in, qur fuits & troubles (davois grants, &c. ci-
bien faits a euz come p euz) ont ensue sur ceo chescun co-
nuist: mes la fuit dit q p chescun curious ou nice misnom-
mer, Dieu defend q leur leases ou grants, &c. serra defeate:

cap

(b) Hob. 125.

car doit estre un sound (a) diversity int' b'iefs & grants; & in (a) Apres 133. a.
touts cases t' e' voier, quod (b) apices Juris non sunt Jura: car 5 Co. 121. a. 6 Co.
si b'e' abate, un poet de comon droit aver nobel b'ief, mes il 65. a. b. 9 Co. 48. a.
ne poet de comon droit aver nobel obligation ou nobel lease, 11 Co. 21. b.
grant, &c. Et jeo bien app'oe le liure in 25 E. 3. 48. b. (b) Co. Lit. 283. b.
ou le case fuit, q' (c) Præc' quod redd' fuit port vers le p'ioz 304. b. 6 Co. 65. a.
de Worcester & demand un mannoz, & le b'ief voilloit Noy 30.
Præcipi Priori Wigornia, &c. le tenant dit, que in Worce- (c) Fitz. Brief 943
ster il y avoit 2 p'iozies, cessascavoit, le p'ioz des fre-
res preachers, & p'ioz de nostre Dame, & le b'ief fuit
abate: issint semble a moy serra reason a multo fortiori a
chaser cesty que voille avoider un escript, demise, grant, &c.
fait per un copozation, ou, a t' per reason dascun verbal
ou literal misnomer a monstre que la sont deux copoza-
tions deins mesme la City, Burgh ou Ville, &c. cessasca-
voier, un per le voier nosme, & auter per tiel nosme come
est contain in le fait, &c. & issint a laisser le fait, &c. bone per
ou al un de eux; mes quant in verity la nest que un mesme
copozation, demises, grants, &c. faits per eux ou al eux
ne doient estre avoïd per tiels nice & verbal variances,
quant in substance le voier nosme del copozation ou per
matter expresse ou necessariment imply deins les parols
mesme appiert al court. Et quant al dit case del Hospital del
Saboy, voier est q' Judgint fuit done in Leschequer per
Baron Clarke & Baron Gent, encounter l'opinion de Sir
Roger Manwood Chief Baron totis viribus, & apres le B'e
de Error port & le case argue al bar, le dit Tho. (d) Fan-
shaw compound ove Paschal p' son lease, & jeo suy accouncel 235,
ove le dit Thomas Fanshaw. Et semble a moy q' la est petit 218. Devant 32. b.
difference int' le Mayor & Cominalty del City de Londres, & 123. b. Hob. 125.
le Mayor & Cominalty del City appel Londres, sinon q' poet 1 Leon. 159. 1 An-
estre monstre q' sont 2 distinct copozations queur ont ceur derf. 102.
2 distinct nosmes. Auy est diversity inter ancient copo-
zations & copozations faites de tardisse temps, car ancient
copozations poient per usage aver divers federal nosmes,
& demises, grants, &c. per ascun de eux serra assets bone.
Et ceur & divers auters diversities vous troveres in vo-
stre liures ensuants: Vide le Case del Dean & Chapter
de Norwich in le 3 part de mes Reports, f. 73. &c. Plow.
Com. inter Croft & Howel fol. 537. 2 Maria, Dyer 97 & 98.
14 H. 8. 29. 26 H. 8. 1. 11 H. 7. 27. 12 H. 7. 14. 23 H. 7. 14.
14 H. 7.

Le Café del Mayor, &c. Part X.

14 H.7.1. 16 H.7.1. 2 R.3.7. 1 E.4.7. 4 E.4.8. 8 E.4.18.
9 E.4.19. 11 E.4.2. 15 E.4.1. 20 E.4.12. 21 E.4.10. 21 E.
455,56. 3 H.6.28. 7 H.6.13. 19 H.6.64. 20 H.6.27. 21 H.
6.4. 26 H.6. Bf 161. 35 H.6.5. 36 H.6. Bf 485. 12 H.4.19.
49 Aff.9. 44 E.3.16,35. 38 E.3.15,28,33. 22 E.3.9. 8 E.3.
5.b & 436. 8 Aff.24. Regist 178.

Mich.

Mich. xi Jac. Reg.

Que est enter Termino Sanctæ Trinitatis,
anno 10 Jac. Regis, Rot. 664. in Bank
le Roy.

William Cluns Case.

William Clun executor de Anne Breather fuit Cr. Jac. 309.
 p^r d^s Henry Archer Def. & demand 9 l. det, 4 Leon. 247, 248.
 & counta q^d le dit Anne Breather 26 Nov.
 anno 3 Jac. Reg. p^r un Indenture de sh le
 date, demise al dit Henry un mese, 2 mills, un garden, &
 divers fres in Coopersale in Essex del feast de S. Mich. le
 Arch. adonq^s darreine passe p^r 50 ans si le dit Anne cy long-
 ment vivers, Reddendo & solvendo p^r oibus præd' præmissis
 p^rfat' Annæ Breather executor & assignatis suis annuatim &
 quolibet añ durante continuatione dimissionis præd' ad Do-
 mum mansionalem Johani Archer in Witham præd. plenariam
 summā trigint' & sex librar' bonæ & legalis monetæ Angliæ ad
 quatuor festa sive terminos in anno usualia, viz. festa nativita-
 tis Dñi Jesu Christi, Annuntiationis Beatæ Mariæ virginis, nati-
 vitatis Scî Johanni Baptistæ, & Scî Mich. Archang' vel infra
 tresdecim septiman' p^r post quolibet p^rd' dierū festival per
 æquas & æquales portion', p^r fort' de q^d le dit Wesi Archer ent in
 les dits teneñts & avoit & teignoit eux usq^s ad & post fest'
 annuntiationis beatæ Mariæ virginis, añ regni regis nunc 9 s. usq^s
 2 diem Aprilis anno 9 supradicto, quo quidē 2 die Aprilis p^rd'
 Anna apud Coopersale præd' obiit & pur 9 l. pur le quar-
 ter due al dit feast del annunciatton anno 9 supradicto, si
 port

- port cest action : sur q̄l count le Def. demurre in ley. Et cest case fuit sobent foits argue al barre, & oze in m̄ cesty Terme fuit argue p̄ les Justices Houghton, Dodderidge, Croke & le Chief Justice, & fuit resolve q̄ l'actiō de Det ne fuit (a) maintainable. Et p̄ t̄ q̄ duo sunt instrum̄ta ad oēs res confirmādas, & impugnād' ratio & autoritas; p̄mierm̄t seo boiller repoz̄ les reasons de cest resoluē, & donq̄s dīds authorit̄es in le point. Et 3 reasons de cest resolutiō fuit m̄se: 1. Pur t̄ q̄ le (b) disjunctive est adde p̄ le benefit de lessē, & est plus pur son benefit dāz̄ le daraine jour, in quel case sont 2 jours de paym̄t, lun voluntary & t̄ al electiō & liberty del lessē a paler t̄ al jours des dīts feasts, laut̄ jour de paym̄t est al fine de 13 semaines ap̄s, & t̄ est le (c) extreme & legal temps, & p̄ t̄ intāt q̄ le dīt Anne Breater mozt̄ devant le extreme & legal temps, le lessē est (d) discharge del rent p̄ act de Dieu in le quarter: Vide Hill & Granges Case, Plow. Com. 172, 173. le plus extreme temps est le legal temps. Et est ascavoir, q̄ in case de paym̄t de rent issuant hoys del terre sont 4 temps de paym̄t, le p̄mier temps de paym̄t voluntary & nemy satisfactory, & unē bone a ascun special purpose, le 2. voluntary & in case satisfactory & in case nemy, le 3. legal & satisfactory absolute m̄t, & nemy, coercive, le 4. legal, satisfactory, & coercive.
- Q̄nt al p̄m̄t si le lessē, donez, ou tenant paia son rent devant le jour, t̄ est voluntary & (e) nemy satisfactory p̄ le cause rend in le 3 reason: mes si soit pay in nōme de seisin del rent, com̄t q̄ t̄ ne (f) inurera p̄ voy de satisfactiō, unē t̄ donera sufficient seisin a cest purpose dāz̄ son Assise ou autre remedy, car le ley ad delectation in donant remedy: & obe t̄ accord Lit. cap. Attornm̄t f. 127.b. Vide 25 E. 3. 44 b. 49 E. 3. 15. 15 E. 3. Execution 63. 37 H. 6. 33. 39 H. 6. 36. 5 E. 4. 2. Q̄nt al 2 si le rent soit payable al feast de Pasche, si le tenant paia le rent in le matine, & le lessor mozt̄ al 2 heure debāt meredie de m̄ le jour, cest paym̄t fuit voluntary, & uncoze est bone satisfactiō vers le heir, mey nemy vers le (g) Roy 44 E. 3. 3. b. Q̄nt al 3. legal temps est convenient temps devant le (h) daraine instant del jour, q̄ est le plus extreme temps, & est satisfactory & nemy coercive, car tanq̄ le fine del jour nul remedy p̄ ley est donez, 21 H. 6. 40. a. Q̄nt al 4. t̄ est q̄nt le rent est due & arere, & p̄ t̄ est bien dīt p̄ le Poet.
- (i) Judicis officium est ut res, ita tempora rerum quærere, quæ sitō tempore tutus eris.

Le 2 reason suit, quant le lessé ne fait (a) paym al p^{ri}m jour solong son election, donqs le rent est absolute^{ment} due al 2 jour, & le 2 jour est cibien pcel del reservation come le p^{ri}m jour, & p^{er} t^{er} puis le non paym al p^{ri}m, est oze sur mat^{er} tant in ley, come si t^{er} ad est^é reserve (b) al 2 jour solem^{ent}, car donqs tout election est passe, come in 17 Eliz. fol. 344. si (c) home p son fait grant un rent charge al un & a ses h^{er}s, & ne dit p luy & ses heirs, & mo^{ut}st, oze le temps del election a fait t^{er} annuity est passe; & p^{er} t^{er} si le granté port^{er} h^{er}es de Annuity vers le heir, t^{er} ne dischargera la terre, p^{er} t^{er} q^unt nul election remain, est tant in ley come si ne unqs ascun election avoiet est^é; & p^{er} t^{er} sur les liures in 43 E.3. tit. Barre 194. 44 E.3. 32. 15 E.3. Execution 63. 5 E.2.2. cest case fuit mise, si un 1 O^{ct}ob. fait lease p ans, ou p vie, ou done in tail, rend p an un pair de esperons doze al feast de Pasche, ou 20s. al feast de S. Mich. Larchangel, in cest case si le lessé ne paia les espons al feast de Pasche, riens est due tanq^{ue} le feast de S. Michael.

Le 3 reason suit, p^{er} t^{er} q^{ue} le rent reserve est dest^{iné} raisse des profits del terre, & nest due tanq^{ue} les profits sont prise p le lessé, car ceux pois (d) Reddendo inde ou Reservando inde, est tant a dire come q^{ue} le lessé paie^{nt} tant des issues & p^{ro}its a tiels jours al lessor, car (e) reddere inde nihil aliud est quam acceptu^m restituere, seu reddere est quasi retro dare, & reditus dicitur a reddendo, quia retro it^{er}, al lessor, donoz, &c. sicut provenit a proveniendo: & obventus ab obveniundo: Et t^{er} est le reason q^{ue} le rent issint reserve nest pas due ou payable devant le jour de paym^{ent} incurre, p^{er} t^{er} q^{ue} est dest^{iné} render & restoz des issues & profits, & t^{er} est le cause que si le terre soit (f) evict ou le lease determine devant le legal temps de payment, nul rent ser^{ra} pay, car ne unqs ser^{ra} appor^{ti}onm^{ent} in respect de pt de t^{em}p^s, c^{on}te ser^{ra} sur evicton de pt del tre; & p^{er} t^{er} si t^{er} p vie fait lease p ans rend rent al feast de Pasche, & le lessé occupy p 3 quarters del an, & in le darreine quart^{ier} devant le feast de Pasche, le tenant p vie (g) mo^{ut}st, icy serra nul appor^{ti}onm^{ent} de rent pur 3 quarters del an, pur ceo que nul rent fuit due tanq^{ue} le feast de Pasche, & nul appor^{ti}onm^{ent} serra in respect de temps: mes in mesme le case si part del tre ad est^é (h) evict devant le feast de Pasche, & le feast de Pasche incurre in le vie del lessor, la serra appor^{ti}onm^{ent} del rent mes nemy in respect de temps que bien continue, mes in respect que parcel del terre demise est evict:

Et

(a) 1 Rol. Rep. 393

(b) 4 Leon. 19.
1 Ander. 9, 10.(c) Dyer 344 pl. 1.
Poph. 87. Co. Lit.
144. b. 1 Rol. 226.
Hob. 58. Plowd.
457. a. Br. effare 65.
Br. annuity 13.
Fitz. annuity 16.
2 H. 4. 13. a.

(d) Co. Lit. 141. b.

(e) Palm. 481.

(f) Co. Lit. 292. b.
Cr. Jac. 310, 311.
3 Co. 22. a. Dyer
56. pl. 15. 2 Rol.
235. Plowd. 134. b.(g) Cr. Jac. 228. Cr.
El. 380.

(h) Co. Lit. 148. b.

(a) Fitz. det 143. Et cest diversity appiert in nostre liure 27 E.3.84.b. in (a) det vers executoys countant q̄ lour tēstatoz luy grant un pension de 20 l. a demurrer ove luy in le guerre le Roy al tēps q̄ il fuit reasonelemt garny a pender al 4 termes du an owelmt, & monstre ouster q̄ il ala ove luy a Calleys p garnishmt lour tēstatoz, & fuit illongues arme, & demand judg-ment & pria le det : a q̄ le Def. dit p le p̄mier quarter il fuit pay de 5 l. & monstre avant acquitance, & devant le 2 quarter sine le tēstatoz mozt, & demand judgmt del action : & Mowbray accouncel ove le J̄P moze, depuis q̄ vous ne dedits pas le pension estt grant come un entree p lan, sur condition q̄ nous avomus perforce, s. q̄ nous avomus ar-ribe ove luy, nous p̄somus le det : mes Wilby Chief Justice, p le rule del court, agard q̄ le J̄P prendra riens p son bf, p̄ t̄ q̄ ne sert appoytionmt in respect de parcel de temps, comt q̄ t̄ eschy p laq̄ de Dieu, Vide 10 E. 4. 18. 20 H. 6. 6.

(b) 2 Leon. 107, 108, 131. F. N. B. 130. h. 267. b. Benl. in ash. pl. 10. Old Benl. 3. pl. 8. Yelv. 67. Owen 42. Cr. El. 118, 776, 807. New Benl. 57. pl. 93. 3 Leonard 4. 4 Leon. 13. Moor 13. Benl. in Kelw. 208, 209. 3 Co. 22. a Co. Lit. 47. b. 292. b. 1 Rol. 29, 30, 601. 1 Rol. Rep. 221. 4 Co. 94. b. Cr. Car. 241. Cr. Jac. 505. 2 Sand. 237. 8 Co. 153. a. 2 Rol. Rep. 47. 5 Co. 81. b. 2 Inft. 395. (c) Dyer 113. pl. 55. Cr. Car. 241. 4 Co. 94. b. 2 Rol. Rep. 47. Cr. Jac. 505. 8 Co. 153. a. Mich. 34 H. 8. Case resolve per les Justices in temps de Seignior Baldwin. (d) Cr. Jac. 228, 311, 310. Cr. El. 565, 575. Orph. Leg. 159. 4 Leon. 247. Yelv. 167. 1 Brownlow 106. 3 Keb. 195. 9 E. 4. 1. 30 H. 8. Apportion B 7. Si seo soy tenuz a vous p obligation de 20 l. deff̄ pay al 4 usual feasts del an per owel portions, le obligē navera (b) action de det debāt toutes les termes incurre ; in la ley dun contract : mes si rent soit sur leas p̄ ans reserve a 4 usual temps del an, le lessor a dā acc̄ de det aps le p̄m̄ jour, & ne targerā tanq̄ lēntire soit due, p̄ t̄ q̄ t̄ est account in ley cōe reservation de parcel des issues & p̄its del t̄re q̄ nest pas det devant le jour, come in le dit case del obligation ou contract : & t̄ est le voier diversity in le case del obligat̄, & rent reserve sur lease p̄ ans in Lit. fol. 117. b. Vide F. N. B. 267. & nota diversity in recognizance dun det payable a sebal jours, car t̄ nest semblable al obligation mes al rent reserve sur lease p̄ ans. Vide 3 Mar. (e) Dyer 103. auf diversity in covenant ou pmise, & contract ou obligat̄. Vide 5 Mar. tit. Action sur le case Br. 108. 10 E. 2. tit. Exec. 137. & 16 E. 2. ibid. 138. Vide 9 E. 3. 7. Pour authorittes in le point, seo ay v̄iew un report dun case, Mich. 34 H. 8. in temps de Baldwin Chief Justice del Bank, q̄ fuit lopinion de tous les Justices, q̄ si hōe seisse de t̄re in fēe 1 die Oct. fait lease del dit t̄re p̄ 10 ans del Feast de S. Mich. adonq̄s barrein passe rend a luy & ses h̄s un annuel rent de 20 l. al Feast de S. Mich. Larchangel, ou deins un mois aps q̄ in cest case si le lessor mozt in le Feast de S. Mich. & le fine del moies, q̄ le (d) heir avera le rent come incident al re- sion, & nemp les executoys come rent arere, p̄ t̄ q̄ ne fuit due tanq̄ le fine del moies.

Desine

Mesme la ley si le lessor inter les dits deux jours ad grāt le reversion ouster & le tenant attorne, le (a) grātē aḡa le rent come incident al reversion. Et Mich. 2 & 3 Ph. & M. Pri-
 deaux Serjeant moḡa Mountegue Chief Justice & les auters Justices del Bank, q̄ si home fait leas p̄ ans rend un annuel rent al feast del Pasche ou un mois puis ode condition de reentre, & le lessē (b) tender le rent al darreine instant del jour del feast de Pasche, si le lessor poet reentre sur demand fait al darrein instant del mois : & semble q̄ nemy, p̄ ē q̄ le lessē ad liberty a paier ceo adonques : & le disjuncty fuit prise inter le dit disjunctive reservation, & q̄nt le reservation est al certain feast, & condition est adde q̄ si soit arriere per le space de un mois apres le feast, q̄ donques le lessor recntra, la le lessē, pur le salvation de son leas, ne poet tender ceo al darrein instāt del feast jour, p̄ ē q̄ il nad tcel liberty & election come in l'auter case. Et fuit dit per les nobel Serjeants q̄ in temps del S̄r Baldwin fuit resolve per tous les Justices, q̄ in le dit case del disjunctive reservation si le lessor moḡst inter les deux jours, le heir avera le rent, & nemy les Executors, quel case le Chief Justice monstre in le Court report per un ancien & erudite Bencher del Inn Temple. Trin. 31 Eliz. in Bank le Roy, Rot. 666. inter (c) Smith Pl & Bustard Def. ou le case fuit in effect, q̄ Smith lessa certaine tre p̄ ans rendant annuellement un rent de 35 l. al feasts de St. Mich & l'Annuntiat de n̄e Dame, ou deins 12 jours apres chescun des dits feasts, payable al font stone in le Eglise del Temple, sur condition q̄ le si le dit rent de 35 l. ou aucun part de ceo soit arrear & nient pay p̄ p̄d. spatium 12 dierum .px. post aliquod p̄d. festorum seu dierum solutionis inde put supradict. est, q̄ donq̄s le dit lease serē voīd : & fuit adjudge, q̄ le lessē, in safeguard de son lease, aḡa 12 jours (d) ap̄s les 12 jours a paier le dit rent, car q̄nt le rent nest pay al p̄m̄ jour, est tant cōe si ē ust este reserve sur le 12 jour ap̄s, & ou est dit p̄ p̄d. spatium 12 dierum post, &c. p̄ bon construction tous les p̄ols doient p̄nder effect, & post aliquod p̄dictorum festorum seu dierum solutionis inde, & dies solutionis ē le 12 jour apres le feast, & p̄ ē le lessē aḡa 12 jours ap̄s le 12 jour, q̄ est dies solutionis post festū, &c. & ē p̄ le plus avail del lessē, p̄ le benefit de q̄ ouster temps fuit done, & ceur parols p̄d. spatium 12 dierum bien estoient in bone sense, cessascavoit, per p̄dict. spatium 12 dierum post p̄d. 12 dies, car ē est p̄dictum spatium, coment q̄ nad mesme le

(a) Cr. Jac. 228.
 Mich. 2 & 3 Ph.
 & M. Case resolve
 in temps del Seig-
 nior Montague.

(b) Cr. El. 14, 48,
 73. Moor 122, 223.
 Plowd. 70. b. Co.
 Lit. 211. a. 2 Leon.
 130, 131. Godb.
 38, 39.

(c) Trin. 31 Eliz.
 Rot. 666. Case ad-
 judge inter Smith
 & Bustard, in
 temps de Wray
 Chief Justice Den-
 gliterre. 1 Leon.
 141, 142. 1 Rol.
 459.

(d) Dyer 17. pl.
 96, 97. 88. pl. 104.
 142. pl. 50. Plowd.
 172. b.

William Clun's Case. Part X.

commencement come l'auter ad : & issint le Quere in 3 & 4 Ph. & M. f. 142. bien resolbe & adjudge. Trin 49 El. Reg. in Communi Banco inter (a) Pilkington & Dalton le case fust, un Parson dun Rectory fist leas pur ans rend rent al feast de St. Mich. ou deins un mois apres, le lessor mourust 10 jours apres le feast de St. Mich. & fust barre per le Judgment del Court, pur ceo que le lessor (b) mourust devant que le rent fust due. Pasch. 40 Eliz. in le Bank le Roy le case fust Dame Eliz. Pawlet jades le feme de Chedwick Sir Pawlet seisie del Hafi de Made in le County de Southt pur son vie, per fait indent demisa le dit Hanoz al William Pawlet pur 99 ans, si le dit Dame Eliz. cy longmēt vīda, rend lannuel rent de Cl. al feasts del St. Mich l'Arch & l'Annunciat de nre Dame, ou deins 40 jours, aps chescun des dits feasts, William Pawlet fist Dulcibel sa feme Executrix & mourust, Dulcibel prist a Baron John Mooz Esquire, Dame Eliz. Pawlet fist Edw. Malgrave son Execut & mourust le 13 jour apres le feast de St. Mich son Execut port act de Det p le demy an finite al feast de St. Mich devant le mort le dit Dame Eliz. & tota Curia contra Querentem : Des p intreaty dascun des Justices Jo. Mooz done al Pl 10 l. Et in le case al barre Judgment fust done, quod Querens nihil capiat per billam.

Dyer 142. pl. 50.

(a) Trin. 39 Eliz.

Case adjudge inter

Pilkington & Dal-

ton in temps del

Seignior Ander-

son. Swinb. 323.

Cr. EL. 575. 3 Keb.

47.

(b) Cr. El. 380.

Pasch. 40 Eliz. in

Bank le Roy Case

resolbe inter Wal-

grave & Moor, in

temps de Popham

Chief Justice Den-

glittere.

Cr. Jac. 227, 228,

233, 311. 1 Bullst.

1, 2. 1 Brownl.

105. 2 Brownl.

220. Yelv. 167,

168.

Mich.

Mich.xi Jac. Regis,

In Banco Regis.

James Osborn's Case.

Mich. 9 Jac. Regis in Com Banco Rot 1427. James Osborn Generosus port action sur le Case vers Francis Middleton, & counta q lou le Plaintiffe 14 Febr. anñ quarto Regis Jacobi ad achate diversa bona & catalla, viz. unum fulcrum lecti (a) Anglice a field Bedstead with a Cesterne and Curtains of Say, unum Canopium vocat a Canopy for a Bed of Downe, unum operimentum vocat a Rugg, &c. ad valentiam xli. pro undecim libris eidem Francisco super 28 die Jun tunc prox. sequen solvend', & declare sur assumpsit, &c. (sur certain considerations mention en le count) ad deliberandum bona predicta, &c. le quel le Defendant n'ad fait, &c. Le Defendant plead Non assumpsit, & les Juroz trovont pur le Plaintiffe & assesse damages & costs, sur q le Plaintiffe ad Judgment, & le Defendant port brief de Error, & assigne pur Error, que damages suet intirement done pur divers choses, & pur aucun de eux nul damages doient esse done, car ou est dit unum fulcrum lecti Anglice a field Bedstead, pur ceo damages poient essr bien done, mes pur le addition subsequent, s. with a Testern and Curtains of Say, nul damages duissoient aver essr done, car fulcrum lecti ne include puis que le bedstead mesme, car fulcrum dicitur a fulciendo, quo lectus sustinetur, & qnt (c) damages sont intirement done, & pur part nul damages duissoient aver essr done le Juratores male se gesserunt in assidendo damna, & pur ceo nul Judgment

Jenk. Cent. 270.
c. 87. Hard. 41.(a) Hob. 172. Lit.
Rep. 161. 2 Rol.
Rep. 61, 255.

(b) Cr. Jac. 665.

(c) Hutt. 125. Cr.
Jac. 665. Hetl. 53.
Hob. 189. Lit.
Rep. 61.

James Osborn's Case. Part X.

* Moor 142.

(a) Dyer 369, 370.
pl. 56. 11 Co. 45. b.
56. a. 2 Bulst. 28.
5 Co. 108. a. 1 Rol.
784. Apres 132. a.
Cr. Jac. 104. Hard.
166. Stryl. 399.

(b) 5 Co. 108. a.
2 Bulst. 102.
2 Rol. Rep. 52.
Hardres 166.

(c) 1 Rol. 767.
Hutt. 52. Cr. Jac.
630. Cr. El. 329.
1 Sider. 38.

(d) Cr. El. 329, 685
Cr. Jac. 127.

(e) Cr. El. 282.

Judgment duissoit aver estt done in tiel case, & obe ces accords * 9 H. 7. 3. a. b. in Rescous, & 28 H. 6. 10. b. Et le case in 22 Eliz. Dyer 370. fuit cite, ou le case fuit, q (a) Cliford port hyef de Ejectione custodie terre & heredis, &c. & count accords, & issue fuit prise sur le traders de le tenure, q fuit trie p Nisi Prius pro Querente, & damages assesse generalmt, & in arrest de Judgment fuit dit, q action ne gist pro custodia heredis, sed pro custodia terre tantum, & p t in le case supra, damages fuet intirent assesse pur le esement del terre & heir, le Plaintiff relinquit les damages, & pria Judgment del Esement de terre tantum. Et tous ceur cases fueront bien agre p le Court : & ouster in proof de ceo deux Judgments fuet cite, le primer in Mich. 14 & 15 Eliz. in Bank le Roy, in Tris p (b) Poley vers Osborn de son close debuse & de son servant hatus (& ne dit per quod servitium, &c. amisit) Le Defendant plead non culp. & le Jury luy trobe culp. generalmt, & assesse damages auxy generalmt, & in arrest de Judgment fuit move, p t q damages fueront intirent done, ou per la ley nul damages duissoient aver estt done al Plaintiff pur le batterie de son servant, sinon que avoit ee alledge, q p reason del battery si ad perde son service, car autermt le servant avera lacion & nemy le maister : a que fuit eside p le counsel del Plaintiff, q sert intend q le court (que doit direct les Juroys in points del ley) avoit done direction al Juroys, pur quant ils solong le ley assesse damages, & pur ceo sert intend in le case al barre que les Juroys aunt done damages solemt p le close debuse & nemy pur le battery del servant, intant q pur t (come le dit case fuit) nul damages duissoient aver estt assesse ; & t ils ressemblont al common case, q home port action sur le case vers l'auter pur (c) slanderous parols (exempli gratia) pur ceur Thou art an arrant Knave, a Cosoner and a Traitor, le Defendant plead non culp. & les Juroys trovont p le Pl & assesse damages generalmt, ceo est bien fait, car sert intend q le Court direct les Juroys a doner damages solemt p parols actionable, cessascavoir, thou art a Traitor, & nemy p les autres parols, pur queur nul action gist. Mes fuit resolve p le Court, q in le dit case de Poley Juratores in assidendo damna male se gesserunt, car qnt damages sont (e) entirent assesse, sert intende pur tout ceo pur que le Plaintiff complain, & pur ceo sert bone pollicy in tiels cases a direct les Juroys a doner damages pur le chose (e) solemt pur que dama-

damages doivent par la ley estre donez; come si in mesme le case les Juroys avoient done damages (a) particulièrement p (a) Cro. Jac. 127. le cloze debyruse, ceo ust estre bone. Et quant al case de flaunders (b) parols, le court agreee mesme le case estre bone (b) Cro. Jac. 127, 343, 424, 630. Cro. El. 296, 329, 685. 1 Rol. 576, 767. 1 Bulst. 37. 1 Anderf. 120. Moor 142, 143, 708. Hob. 6. Cro. Car. 327, 328. Hut. 52. 1 Sid. 38. (c) Cro. El. 882.

1. Que ceo est action sur le case, & pur c il poet bien (c) declare son case come ceo in verity fuit, 2. Touts ensemble nest que un scandal, & coment que nu action gist pur les dits parols, Thou art an arrant Knave, a Cosoner, a p luy, uncoze esteant parle a un m temps & couple obe les auters parols actionable, ils aggravoient eux: mes si a un teps le Def. appelle le Plaintiff Traitor, & al auter temps il appelle luy Arrant Knave and Cosoner, & le Pl port action sur le case, & alledge les dits several parols parle a several temps come several causes d action, la si sur rien culp. pleads les Juroys assessent damages entirement, Judgement serf arrest pur tout, car il foundue son action sur deux several scandals ou lun nest pas actionable. Auter case fuit adjudge in Bank le Roy Mich 30 & 31 El. Regin. mes c fuit enter Mich. 28 & 29 El. rot. 476. Et le case fuit tiel, (d) Moor port action sur le case Jhus Bedel, & count que lou Pasc. 22 El. Bedel ad recover per default in action de Waste, & 45 l. damages, puis qd Judgement, cessassavoit, ultimo Novembris anno 24 El. ils submittoient eux mesmes al agard de Palmer & Poby de touts matters adonques in variance inter eux, in consideration que le Plaintiff assume & performet leur agard de son part, le Defendant fist reciprocal promise a performet ceo de son part, & que il ne voille suer execution sur le dit Judgement in l action de Waste, & puis 10 Decembris Anno 24. les dits arbitratoys fesoient arbitraint in escript a cest effect, ils agard que Moor paiera al Bedel x. l. a certain jours, & xv. l. a certain auters jours, & pur paiement de xv. l. un William Salter serf prst a sealer & deliver xv. obligat, &c. & ouster ils agard, que lou certain Coppyhold terre del Manor de Langley in le County de Buck. de que le dit Bedel ad fait (e) leale pur ans per Indenture contrarie al Custom, &c. que le dit William Salter pro posse suo serf que nul advantage terra prise del forfeiture, & in consideration inde q Bedel dischargerat Moor de xx l. parcel del dit xv. l. recover in le dit brief de Waste: Et que sur le readiness de William Salter a sealer & deliver les dits xv obligatibz, Bedel per son fait remastera al Moor touts actions adonques pendant & touts demands jelsque xv. jour de June Anno 24 superad, & mte que

(d) 1 Rol. 242; 243, 244, 245, 247; Gold. 91. 5 Co. 108.a. 1 Leon. 170. 1 Rol. Rep. 270. 437. 2 Rol. Rep. 2, 192. Jenk. Cent. 264. Winch 33. 3 Bulst. 258. Hard. 399. Palm. 107. Bridg. 58, 59.

(e) Co. Lit. 59. a.

que le r l. fuit pay solonque lagard, & ultimo octob. 24 Eliz. William Salter offer deſtre tenuis in les dits 15 obligations, & fist son endevoꝝ pro poſſe ſuo, quod nullum advantagium caperetur de forisfactura, &c. & assigne 2 breaches del agard, lun que le Defendant n'ad fait le dit releaſe ſur requeſt fait, l'auter que il ad ſue execution ſur le dit Judgement per Fieri fac, & ad levie 4. l. parcel : Le Defendant plead Non aſſumpſit : & cē iſſue fuit trove pur le Plaintiff, & 50 l. damages dōe : Et in ceſt caſe 2 points fueront reſolve, que ſolement fueſt moye in Bank le Roy, lun que coment que les parties ount eſſe iſte per obligation a performer lagard (come in ceſt caſe per mutual promiſes) uncoꝝ quant a tout ceo q̄ fuit dōe fait per William Salter eſteant (a) eſtrang al ſubmiſſion lagard

(a) 5 Co. 78. a.

1 Rol. 243, 247.

259. 1 Rol. Rep.

270. Kelw. 43. a.

3 Leon. 62. 2 Sand.

293, 337. Hurr. 9.

Cro. El. 432. Moor

3. 359. Cro. Car.

226. Hard. 46.

Yelv. 98.

(b) Cro. Eliz. 4.

Godb. 12. 1 Rol.

243.

(c) 22 H. 6. 46. b.

Hard. 41. Fitz.

Dev. 49. Br. Arbi-

trament 24. Br.

Condition 59.

fuit void, car ils ne ſont iſtes a performer aucun agard, mes ceo que eſt deins le ſubmiſſion, & iſſint ſuit adjudge Paſch 24 Regiæ El. Rot. 2417. inter Ecclesfield & (b) Malliard in Bank le Roy; & ove ceo accord 17 E. 4. 5 b. per tous les Juſtices : Vide (c) 22 Hen. 6. ſopinion al contrarie, mes le caſe eſt bone Ley, mes malement Report, car in action de det ſur obligation, le Defendant plead que l'obligation eſt indoyſe ſur tel condit, que ſi le Defendant eſſoit al arbitrement & agard de A. & B. de tous querelles & debates penter le Plaintiff & luy, &c. que donques l'obligation perdra ſon force, & dit que ſi agard que le Defendant paiera al un ſkandal xx. s. q̄ ſi luy ad pay, Judgment, &c. Alſon accouſcel ove le Plaintiff p̄ſit exception al plea, pur ceo que appiert, q̄ ceſt arbitrement eſt void, iſſint demurt l'obligation in force, mes ceo ſans queſtion eſt un Non ſequitur, car ſi nul arbitrement, ou void arbitrement ſoit fait, que eſt tout un ſa Ley, l'obligation neſt pas forceit, ne l'obligation prendra aucun benefit de ceo; & pur eſt tout que la iſſuit eſt (come a mapſemble) miſpriſe per le Reporter, cōe opinion nient pertinent al caſe in queſtion : Vide 28 H. 6. 13. 8 E. 4. 22. 19 E. 4. 1. 21 E. 4. 75.

2. Coment que pluſors choſes ſont agard deſtre fait in ſatisfaction dun auter (come ceſt caſe fuit) & aucuns ſont (d) deins le ſubmiſſion, & aucuns dehors, & iſſint void; & com̄t que tous fueſt intend per les Arbitrators deſtre un plenarie & iſtre recompence, pur choſes que l'auter ſerra in conſideration de ceo, nient obſtant, ſi aucun choſe deſtre done ou fait al partie, coment que ſoit de petite value, ſoit deins le ſubmiſſion, lagard eſt bone, coment que appiert que per l'ordonnation des arbitrators que ceo que eſt deins le ſubmiſſion, ſans

les

(d) Cro. Jac. 448.

les autres ne fust plenary satisfaction pur le chose desiré fait per l'auter party, sur q̄ Judḡnt fust done pur le Plaintiff : & sur ceo les dits Executors de Bedel port̄ Writ de Error sur le nobel statute ; & les dits exceptions move in arrest de Judḡnt fust move arere in Bank le Roy, & les Justices del Common Bank & Barons del Eschequer accord̄ quant al eux ove les Judges del Bank le Roy : & donques un autre Erroz apparant in le Record fust assigne q̄ ne fust move in Bank le Roy, & fust q̄ la fust deux breaches assigne per le Pl, l'un de refusel a fait le dit release, & l'auter le fust del execution, & q̄nt al release lagard fust volde, & per consequence damages esseant entiere done, le Judḡnt done pur ceux damages fust erroneous, & appiert q̄ le dit releas fust hors del (a) submission, car le submission fust de toutes choses in variance ultimo Novemb. 24 Eliz. & lagard fust q̄ Bedel releasera al Moor̄ tous demands jesc̄ al 15 jour de July an̄ 24 Eliz. & le request a faire le dit releas fust an̄ 26 Eliz. & fust l'un des brances fust hors del submission : Encount̄ q̄ fust object, q̄ voier est q̄nt 2 points soient misse in issue, & pur l'un nul action gist, & damages soient entiere assesse, ceo est erroneous, pur ceo que ambideux sont direct̄ deins le charge del Jury come in le dit case del close deb̄tise & battery de son servant : mes in le dit case inter Moor̄ & Bedel le Def. in l'action sur case plead Non assumpsit modo & forma, le quel est solent leur charge, & sert intend que le Court direct le Jury q̄nt al damages pur cest breach solement que est deins le agard & l'assumpsit : & cest case depend longesit in advisement ; & apres que le case ad este lobent sol̄s argue devant eux, & sur conference inter eux mesme fust resolve p̄ eux tous, q̄ sert intend (non q̄ soit specialment trobe) que (b) damages fueront done pur ambideux les breaches, & ove ceo accord̄ (c) Cliffords Case avantdit in 22 Eliz. Dyer, ou lissue fust soyn̄e sur le tenure, & damages assesse general̄ment extend̄ si bien al custod̄y del corps come del terre : & intant que in le dit Case inter Moor̄ (d) & Bedel, l'un des breaches fust hors del submission, come fust resolve per tous les Justices & Barons, le Judḡnt done in Bank le Roy fust pur cest cause reverle.

¶ Mes in le case al barre fust unement agree, que le (e) Judḡnt fust bien done p̄ les Judges del Common Bank, & que ceo doit est̄ affirm. Et in cest case ceux diversities fust agree : 1. Inter les cases in queux 2 choses sont directe mise

(a) Hob. 191. Cr.
Jac. 115, 353, 578,
639, 640, 664. Cr.
Eliz. 858, 861. Cr.
Car. 217. 1 Sid.
154. Moor 885.
Hurt. 9. 1 Brownl.
48. 1 Rol. 258, 245.

(b) 5 Co. 108. a.
Cr. Jac. 215, 343.
Cr. Car. 327. Hob.
189.

(c) 5 Co. 108. a.
10 Co. 130. b.
11 Co. 45. b. 56. a.
Dyer 369, 370.
pl. 56. 2 Bullstr. 28.
1 Rol. 784. Cro.
Jac. 104. Hard. 166.
Styl. 399.

(d) 1 Rol. 242,
243, 244, 245, 247,
258. 5 Co. 108. a.
2 Rol. Rep. 2, 192.
Jenk. Cent. 264.
Goldsb. 91. Hard.
399. Winch. 33.
1 Leon. 170. Palm.
107. 3 Bullst. 258.
1 Rol. Rep. 270,
437. Bridg. 58, 59.
(e) Jenk. Cent. 270
ca. 87. Hatt. 41.
Cr. Jac. 665.

mise in issue, ou oblique inquisse p les Juroz, & le case al barf, lou n'est q un chose soleint, car fulcrum lecti est soleint le chose p quel damages sont done, & p le testerne & curteins nul damages s'uef asselle, car ils ne sont alledge positive sed expositive, cestascavoit, unum (a) fulcrum lecti (b) Anglice, & le exposition extend a plus q fulcrum lecti signifie, & p e tout le residue est mere nugation & voide come chose nient oſo alledge; & p lestatute de (c) 36 E. 3. cap. 15 est purbieu, que tous pleas que terra pledes, &c. soient pledes, mſe & defendus, rſidus, & abatus in langue Englois, & q ils serf enter & intolle in Latin, & que les leys & customs del dit Realm, termes & proces soient tenus & gardus come ils sont & ont este avant les heures: Et fuit resolve q cest statute qſit al primer fuit introductibe dun nobel ley mes, qſit a les deux autres branches, ils sont declarative del ancien, car dancien temps & devant le conquest les originals bries, & tous les proces & proceedings sur eux s'uef enter in Latin, & infinite records debāt cest temps uncoze extant sont enter in Latin, & uncoze p le melleur illustration del verity un fait Anglois, Gallois ou Dutche, &c. poet estf enter ou in un plea, ou special verdit. (d) 41 E. 3. 16. tit. Brief & abatement de ceo Bf 49. (le liure esteant malement imprint) In Præcipe quod reddat le brie fuit Præcipe quod reddat filio & heire, ou serf haredi in Latin, & a cest case le bſe fuit abate, car come Shard Justice dit in 29 E. 3. f. 31. a. Latin est un language formal de mitter in bries, &c. & Englois est pſols des lays gents: & uncoze qſit Englois ou Francois est parcel dun noſme, la ceo serf permit in un brie, & p si le noſme de un Wanoz soit A. beside K. il poet demand t in un Præcipe p cest noſme in Englois, car paravent nient obstant le noſme le dit Wanoz gſit in K. & pur ceo in Præcipe fil dſit A. juxta K. donques sans question si ascun part del Wanoz extend in K. le bſe abatera: & ove t accord (e) 44 E. 3. 12. b. & 29 E. 3. 31. a. Ilint si le surnoſme dun soit Fitz-John, il poet ilint este noſme in un brie, car si serf noſme in le brie Præcipe Willielm filio Johannis, serf bone plea adit que son pier ad autre chretien noſme, come Richard, &c. & ilint abatera le brie; & ilint est tenus in 29 E. 3. 30. b. & 31. a. 40 E. 3. 22. a. 44 E. 3. 12. b. & 13. a. 11 Aff. pl. 29 11 E. 3. Estoppel 228. (g) 10 E. 4. 12. a. Ilint jeo ay lye q un Henry ad a son surnoſme In the Hall, & il port brie p cest noſme, q confist de trois parols Englois, & bene, car son noſme n'est Henricus

(a) Cr. Jac. 665.

(b) Hardres 4.

(c) Co. Lit. 304. b.

Cro. El. 85. Dyer

239. pl. 32. 2 Bulst.

214. 8 Co. 161. a.

(d) 41 E. 3. 21. a.

(e) Fitz. Brief

574. Br. Brief 67.

Statham Brief 31.

(f) Co. Lit. f. 3. a.

Fitz. Brief 524.

(g) Fitz. Brief 180.

Br. Estoppel 165.

Henricus in aula, Vide 29 E. 3. 2. a. *Issint que Brevia tam originalia quam judicialia patiuntur anglica nomina.*

¶ 2. Fuit resolve, q̄ parols q̄ passent desouth le nosme de Latin sont de 4 soys, 1. Bone Latin allow p grammarians, 2. Parols significant & conus al sages del ley, mes nemy allow p grammarians ne ayant ascun countenance de Latin, 3. In qur cases mala grammatica, faux Latin, ou nul Latin, & un̄ eyant countenance de Latine, abatef ou distruet & ou nemy, 4. Parols insensible & de nul signification, & qur nouit ascun countenance de Latin sont ousterhit reject, del p̄mier soyt, sont bone & congrue (a) Latin, & t̄ sans question est deins le statute de 36 E. 3. Del 2. soyt sont mesuagium, toftum, gardinum, bruera, jampna, &c. maeremium, &c. Ceux & d̄is̄s aut̄s de m̄ le nature, sont allowable non solehit in plea pleadant, mes in b̄yels original aury, car ceux parols sont conus al ley & al sages de ceo, & tiels aury sont deins le dit act de 36 E. 3. & issint in auters sciences ceo est frequent, come les professeurs del civil ley usont reprisalia, feuda, shopa, solaria, & mults aut̄s semblables, plusors foits il usont a explaī eur p̄ Anglice, &c. cōm̄ tollaria, Anglice Warehouses: & les Phi-sitiens usont cest barbarous pol Brothium for broth & aut̄iels semblables: Del 3. soyt faux Latin ou incongrue Latin, ceo abatera un original b̄yef, mes ne ferf ascun judicial b̄yef, count, pleading ou Judḡmt̄ vitiours, (car faux Latin serra en tiels cases amend) à multo fortiori t̄ ne avoirdra un grāt ou ascun fait, &c. & p̄ t̄ neq̄ faux Latin neq̄ faux Englois naboirdra un (b) grant ou auter fait quant l'entention des parties appiert: Mich. 3 & 4 Regiñe Eliz. in Cōmuni Banco, Rot. 1350. l'obligation fuit in octaginta libris obe condition pur payment de 40 l. & coment que cest parol octaginta est minus Latinum uncoze fuit adjudge bone obligation de octoginta libris. Nota octingent̄ est 800. Issint Mich. 44 & 45 Eliz. 1031. in Communi Banco l'obligation fuit in septingenta libris obe condition pur le payment de 350 l. & fuit adjudge que ceo septingent̄ serf prise pur septingent̄, id̄ est 700 l. Issint in 9 H. 6. 7. a. obligation de wiginti libris prise pur viginti libris, & 9 H. 7. 16. b. & 2 H. 4. 8. a. acc̄ Mich. 11 Jac. Regis in Cōmuni Banco un bill fuit fait in (c) Englois, s. in sewtene pounds que fuit faux Englois, & un̄ adjudge bone bill de 17 pounds car l'entent des pt̄les appiert. Aury q̄nt la est nul Latin parol p̄ divers choses, come pur un sticrop, mes un seined parol Stapedia, & issint pur Celsbet, la est

(a) 1 Sid. 98, 183.
5 Co. 121. a. 8 Co.
159. b. Stiles 328.
358. 2 Vent. 173.
2 Sand. 31. 1 Bull.
126. Hob. 191. Cr.
Jac. 307. Cr. Car.
33, 386.

(b) Co. Lit. 304. b.
8 Co. 161. a. De-
vant 126. a. 6 Co.
65. b. Cr. Car. 146,
147, 417. Cr. Jac.
203, 261, 603.
Noy 119. 3 Keb.
255. Yelv. 95, 96.
Hob. 18, 19, 20,
116. Cr. El. 896.
1 Brownl. 61. Stiles
302. Moor 645,
864. Br. Obliga-
tion, 4, 71. 2 Rol.
146, 147.

(c) Cr. Jac. 607.

James Osborn's Case. Part X.

(a) 1 Jones 144,
454. Cr. Car. 554.
Cr. Jac. 129.

est nul Latin parol pur ceo, & pur ceo in cest case poet estre dit in count countant 2 ou 3 virgatas velveti, & in tout tiels cases ou est nul Latin & un^t est significant & ad countenance de Latin, est sage^{nt} fait, a faire un illustration de tiels parols, de adder (a) Anglice cōe le dit case devant Anglice of Velvet, & sic de similibus, come in le case al bar^r operimentum, Anglice a Rugge, esseant nul Latin parol p^r un Rugge : & ceux sont auxy deins le dit Act de 36 E. 3. De 4 sort sont parols insensible, &c. come in le case del Replevin Pasch. 36 Regis Eliz. inter Tho. Gawin & Sir Edmond Ludlow, le count fuit de dixs ads & biens & chateur, & int^r eux fuit vitrium, & sur issue joyne les Juroys assesse damages int^rest^r pur tous : Et fuit resolve, que si vitrium soit parol insensible, & de nul signification donques damages ne poent ēe done pur ceo, mes pur le residue sole^{nt} ; mes le Court incline fortment q^u ceo ne fuit forsq^s faux Latin, car vitrum est Latin pur glass, & vitrium ad countenance de Latin & ass^r le Court sufficient que il entend ceo pur glass, & int^r quacunq^s via data, Gawyn ad Judgment a recover. Et puis per tous les Justices in le case al barre Judgment fuit ass^rme.

Nota Lesteur, Multa renascentur quæ nūc cecidere, cadētq^s;
Quæ nunc sunt in honore vocabula, &c.

Pasch.

Pasch. x Jac. Regis,

In Communi Banco.

Read and Redmans Case.

IN Det port per deux Executors, lun fuit summon & seber, & puis cesty que fuit seber moyst, & le Def. ^{13 Co. 32. Co. Lit. 139. a.} plead ceo in abatement del Bief. ¶ Et fuit resolve que le Bief nabatera encunt le liure biefment re- port in 38 E. 3. f. 11. ou le Reporter dit cont, Termino Triis 16 Regis, &c. & 20 E. 3. tit. Account 78. les Executors del Countee de Salisburp portont Account, & lun fuit summon & seber, & puis moyst, & le Bief fuit abate p agard. Mes p le melieur intelligence del voier reason del Ley in cest case & auters semblables, ceur disticties sont destt observe. Le primer est inter Biefs (a) real original, & Biefs real judicial: Car si deux (b) coparceners portont real action, & lun est summon & seber, & puis moyst avant issue ou nul issue, le bfe abatera: Illint si deux Joint port Ass. ou aut original real action, & lun est summon & seber, & cesty q est summon & seber moyst, le bfe abatera, comt q le chose in demand surdibera, car home in real action ne unques recobera sur bief, ou faux in parols, ou (c) unapt p son case, intant q il poet aver bief voier & apt aux; ne home recoffa le moity, ou il poet aver original bfe a recoff tout; & ascun foits per act de Dieu subsequent, les parols del bief bien purchase deveignont faux ou unapt pur son case, & in tiels cases

(a) Hur. 37.
Hob. 287.(b) Cr. Car. 574,
583, 589. 1 Jones
452.(c) 11 Co. 5. b.
45. a. 1 Rol. Rep.
34, 77. 36 H. 6.
28. a. Hob. 164,
178, 199. Yelv.
71, 148. Palm. 524.
Cro. Jac. 70, 104.
Cro. Car. 575. Cro.
El. 325. 1 Brownl.
68. 1 Sand. 285.

cases le bñef abatera, obe t accord 5 E. 3. 3. in bñef de ayel
 John de Hattons Case 38 E. 3. 35. b. 37 H. 6. 11. b. 19 R. 2.
 tit. Brief 925. Vide 38 E. 3. 43. Mes si 2 Coparceners pozt
 Scire facias q est judicial bñef sur fine leuy, &c. & lun Copar-
 cener est summon & seber & mozt sans issue, le judicial bñe
 nabatera mp; mesme la ley in case de deux Jointenants :
 Mes si cesty Coparcener q mozt ad issue, donques le bñe
 abatera, come est adjudge in 42 E. 3. 2. & 8. Vide 32 E. 3.
 tit. Brief 292. & 12 E. 3. ibid. 258. Le 2 diversity est in reals
 mes original, ou cesty q est summon & seber mozt, q est act
 de Dieu & p q le bñef est abate, & pñel del Baron ou entt
 in la terre p cesty q est summon & seber, queux ne abatef le
 bñef, car ceux sont ads de cesty q est summon & seber, & le
 bñef per tiels acts (ou nest aucun summons & seberance) de-
 veigne solemnt abatable : & obe ceo accord 39 E. 3. 16. Le 3
 diversity est inter actions real contnant franktenemt ou in-
 heritance come est avantdit, sans aucun regard al survivoz, &
 actions mere personel, ou personel & in aucun manner mixt
 obe le realty, in queux chattels ou choses entiere sont dñe, la
 si lun pñ soit summon & seber, le mozt de luy (ou le chose
 intire survive al auter) nabatera le bñef : Come in bñef de
 Guard de corps, 37 H. 6. 11. 38 E. 3. 35, 36, &c. Vide 50 E. 3. 7.
 30 E. 3. 14. 38 E. 3. 36. 1 H. 5. 12. 9 H. 6. 30, 56. 7 E. 3. 364.
 17 E. 3. 11. tit. Brief 665. 38 E. 3. 43. Vide 17 E. 3. 11. F.N.B.
 35 H. 3. 5. 4. Quare impedit 71. 10 Eliz. Dyer 279. Et in
 tiel case de (a) Quare impedit in aucun case le mozt de lun
 des pñs ne abatera le bñef sans aucun seberance, s. ou au-
 ternt le pñ q survive serra sans remedy, &c. come sur ple-
 narty & 6 moys passe, ou q laps incurget : qñ reason p ad-
 venture boill reconcile tous les liures avantdits, qñ prima-
 facie semble a discorder ; & t est le reason rsidue in aucun des
 dits liures, come in 38 E. 3. 36. 9 H. 6. 30. &c. q auternt le
 tozt fait al pñ serra dispuntie, ou auternt le laps incurget, &c.
 & p adventure, tiel tozt trencheroit al disheritance del survi-
 voz a tous jours, come si 2 purchase un Adowson in fee, &
 un estrage usurpe, & ils pozt Quare impedit & les (b) 6 moys
 passe, & puis lun de eux mozt, si in cest case le bñe abata p act
 de Dieu, le survivoz serra disherit del dit adowson a tous
 jours ; mes qñt aps le mozt del un des pñs, le survivoz pozt
 aver nobel bñe sans aucun prejudice a luy, la vous troves in
 aucuns des dits liures q le bñe ad este abate : mes sans que-
 stion si lun des pñs in Quare impedit soit (c) seber & mozt,
 le

(a) 7 Co. 26. b.
 Moor 9. Co. Lit.
 198. a. Dallison 7.
 F. N. B. 35. L.

(b) 1 Rol. 383.

(c) Kelw. 47. b.

le byief nabatera. In byief de (a) Detinue de Chres port p 3 (a) Co.Lit. 286. b. copceners; vide 19 E. 3. tit. Severance 14. 20 H. 6. 45. 2 E. 3. tit. Severance 19. In bñ de Det p executors, q̄ ē le case oze in q̄. ff. 5 E. 2. tit. Bñ 802. 16 E. 2. tit. Executors 111. 3 H. 7. 1. car la le det demande ē intire, & t̄ survive. Mes in ceux cases, si lun p̄l mozt sans seance le bñ abatera. Vid. 2 R. 3. 1. vide 37 H. 6. 16. In 48 E. 3. 32. 2. port bñ de Garf de Chaf & lun mozt, le bñ abatef, car t̄ est original: mes in quid juris clamat p 2 & lun de eux mozt, le bñ nabatera, car t̄ est bñ judicial, 48 E. 3. f. 32. & regularint in tous judicial bñes in psonal acc̄, le mozt de lun des p̄ls ne abat le bñ, 41 E. 3. tit. Exec' 38. 11 R. 2. tit. Bñ 638. vide 25 E. 3. 38. b & 18 H. 6. 2. vide 20 E. 3. Severance 17. q̄ summōs & seance ne gist in Quid juris clam̄, mes le (b) nonsuit de lun ē le nonsuit dambideux, car le t̄ ne sert mise (b) Co. Lit. 139. a. daturū al un soleint. Aut d̄s̄lity est int̄ bñes in q̄r aucun chose est d̄e recō, & bñes in q̄r riēs est d̄e recō, mes sont a discharḡ le p̄l soleint dun burthē: Et p̄ t̄, in bñ de Error le mozt de lun des p̄l abata le bñ, 3 H. 7. 1. 2 R. 3. 1. a. 19 Aff. pl. 7. & 44 E. 3. tit. Bñ 584. Mes in (c) Audita querela q̄ ē aury (c) Co. Lit. 139. a. original, le mozt del un des p̄l ou del un des Def. nabata le bñ 2 R. 3. 1. 11 R. 2. tit. Bñ 638. p̄ t̄ q̄ il ē a recō riēs mes sole. 19. int̄ a discharḡ luy in dun burthē & charge. Et a cē cause le nonsuit de lun nē le nonsuit (d) del aut in Audita querela, mes (d) Co. Lit. 139. a. ferra summō & seā, 15 E. 3. tit. Severance 23. Nota Lecteur, 6 Co. 25. b. Cr. El. 448. summons & seance est tous dits devant appearance, & (e) Co. Lit. 139. b. (e) nonsuit apres appearance, ou le severance est sans pro- cess, &c. 38 E. 3. 9. 26 Aff. pl. 35.

Trin. x Jac. Reg.

In Communi Banco, quel plea commence
Hill. 7 Jac. Regis, Rot. 1231.

Richard Smith's Case.

Rich. Smith Administrator de Gregorz Backhouse
fuit Pl' in Quare impedit vers Thomas Evesq de
Peterburgh, Thom Abbot, & Hugh Lord Clerk, & le
bt & count fuit de placit' qd permittat ipsum Rich.
presentat idoneam personam ad medietatē Ecclesiæ de Wood-
ford in Com' Northampton q vacat & ad suā spectat donatio-
nem, Et in cest case, aps pluroys argumts al barre, & oze in
m cest terme al bench, dñs point suet resolve. ¶ 1. Que
nul avera Quare impedit presentare ad medietatē Ecclesiæ,
mes qñt sont 2 several patrons, & 2 several incumbents del
Eglise deins un m ville, issint q lun patron ad distinct & se-
perate adbowson dun half del Eglise, & son incumbent ad
distinct & seperate half del part a per luy des dñmes & auzs
Ecclesiastical profits deins m le Ville, & issint ad laur patrō
& son incumbent mutatis mutandis, & in cest case ladbowsōn
& leglise sont seber in dñst & in possession; mes quant la
nest forsq un incumbent, comt q ladbowsōn est dñsde & seþ
in several mains, uncoze la ne unqs sert Quare impedit
presentare ad medietatem seu tertiam partem Ecclesiæ, &c.
& le reason de cest diversity est manifest, car chescun Quare
impedit est in le possession & respect leglise q appent al in-
cumbent, & p c le byef de Quare impedit, id est, quod per-
mittat ipsum presentare ad Ecclesiam de W. & p c appiert q
lestate & quality del Eglise direct le byef de Quare impedit,
& p c quant leglise nest seþ, mes la nest que un incum-
bent, un Eglise, un Cure, nest possible q in respect del seve-
rality

Co. Lit. 17, 18. a.

ralty del advowso q̄ al t̄ Quare impedit ser̄t port ad medietatē
 &c. Ecclesiæ, car nē al t̄ moiety in L'eglise mes t̄ est entire, mes
 cest q̄ p̄sent ad moiety, &c. in ladvowson, & p̄ t̄ q̄nt al cōmence-
 mēt del foundatiō del Eglise un m̄ Eglise dun m̄ Will fuit
 divide & seḏ in 2 parts, & ladvowson del un part allot al un &
 del aut al aut, & q̄ ser̄t 2 (a) seḏal incumbents lun de una me- (a) 1 Jones 446.
 dietate Ecclesiæ, & laut̄ de alia medietate Ecclesiæ, & lun pt del
 Wille ala al un & laut̄ a laut̄, la q̄nt lun patron p̄sent al moiety
 del Eglise, & soit disturbe, il bien post aḏ quare impedit qd'
 permittat ipsum p̄sentare ad (b) medietatem Ecclesiæ, car (b) F.N.B. 33. a
 in verity lencumbent nadera foḏq̄ le moiety del Eglise, &
 nemy lentire Eglise, ne lentire profits del Eglise, ne lentire
 cure del souls; mes le b̄ de Droit advowson est port a recoḏ
 ladvowson, & le b̄ est Præcipe quod reddat advocatiōē Ec-
 clesiæ, & p̄ t̄ lestate & quality del advowson & nemy del Eglise
 direcera cest b̄, car lencumbent del Eglise ne ser̄t remove p
 cest b̄, car advocatio appertain al patron, & Ecclesia al in-
 cumbent: & p̄ t̄ fuit ousterm̄t deny, q̄ si consolidation soit
 fait de 3 advowsons, issint q̄ tous sont foḏq̄ un incumbent
 & un Eglise, in cē case, com̄t q̄ ladvowsons sont seḏeral a
 p̄sent p̄ toḏne, unē le Quare impedit ser̄t in tiel case p̄sen-
 tare ad Ecclesiam, car oḏe sur le mat̄ nēst foḏq̄ un Eglise &
 un incumbent; vide (c) F.N.B. 39. fg. 5 H. 7. 8. a. Et fuit ob- (c) Jones 446.
 ject, q̄ admittant q̄ in tiel special case come ad est̄ mise, s.
 ou sont 2 seḏerate incumbents, q̄ Quare impedit serra main-
 tainable de medietate Ecclesiæ, uncoḏe tiel special case doit est̄
 m̄se in le count, ou auter̄m̄t ne serra intend̄, & nul tiel special
 mat̄ est alledge in le coḏt in le case al bar̄. ¶ A t̄ fuit r̄nde
 & resolve, q̄ le count in le case al barre fuit sufficiēt d'assertein
 le court q̄ la sueḏ 2 (d) patrōs & 2 incumbents, car le count fuit (d) Doct̄in. placit.
 q̄ un Will Thopley fuit seissus de & in mānerio de Thorleys 87, 248.
 in Com̄ prād' ad qd' advocatio medietatis Ecclesiæ prād', &c.
 pertinuit & adhuc ptinet, in dominico suo ut de feodo, &c. &
 tous soit̄s un est̄ dit dēe seisse de advocatiōe medietatis q̄nt
 la sōt 2 seḏal patrōs, & issint t̄ient Prisor, in (e) 33 H. 6. 11. b. in (e) Co. Lit. 17. b.
 Sir Edw. Odingsels Case: & p̄ t̄ in le case al barre, q̄nt le p̄r Apres 136. b. Dyer
 declare q̄ Will Thopley fuit seisse de advocatiōi medietat̄, t̄ im- 299. pl. 32. Moor
 ply 2 seḏal patrōs & 2 incumbents, car la ladvowson & L'egl̄ 867. pl. 1199.
 sont seḏ in dēt & in possess. (f) 14 H. 6. 15. b. per Newton act̄. (f) Co. Lit. 17. b.
 Fitz. Nat. Br. 31. In 31 E. 1. tit. (g) Droit 68, 69. appiert, (g) Co. Lit. 18. a.
 que home avera b̄ief de Droit de medietate advocatio- Cr. El. 688.
 onis lou ladvowson est depart inter deux Coparceners

& lun soit disturbe p estrāg; mes bē de Droit de advocacione
 medietatis Eccles. gist lou 2 sebal Patrons pſent 2 sebal pſons
 a un Eglise, cōe sont in ascū Eglises 2 pſons incont lopi-
 niō de Finchden, 45 E.3. tit. 41. vid. 45 E.3. 12. b. vid. 17 E.3.
 38. b. Poinings Case, vid. 17 E.2. Dower 163. bē de Dower de
 3. parte advocacionis. Vide (a) F.N.B. 33. (b) qſit un pſon sue
 in Spiritual Court p Dismes amoutāt al 4 pt del value del
 Eglise vs pſon daut pſch, cest pſon q est issit sue poit aſ Pro-
 hibition appel Indicavit, al Ecclesiastical Judge & al pty; &
 dōqs le patrō del pſon issit phibit poit aſ bē de Droit de ad-
 vocatione decimarū 3 part' Eccles. de S. vel 4 ptis, mes cest bē
 est dōſ p lestat de W. 2. c. 5. vers. finē. Vid. 38 E.3. 13. 31 H.6. 14.
 & lestat' de Artic' Cleric' 2. & cōjunctim feoffat. F.N.B. 30. e.
 vid. Dr. & Stud. c. 25. f. 108. vid. 4 E.3. 27. 29. 7 E.3. 42. 8 E.3. 49.
 9 E.3. 42. 2 H.7. 12. 12 E.4. 13. Vid. Registr' 29. b. Præcip' qd'
 redd' advocatiō medietat' Eccl' de S. vel 3 ptis, & F.N.B. 30.
 31 E.1. tit. Droit 68, 69. 22 Aff. pl. 33. ou sōt 3 pſōs dun Eglise,
 & un in Quare impedit declare pſentāf ad medietatē ou terra
 ad 3 partē, le bē abatera, qſ pbe q in tiel special case Quare
 imp' gist pſent ad medietat' ou 3 ptē, 7 E.3. 327. 8 E.3. 421.
 33 E.3. Quare imp' 169. 14 H.6. 15. 5 H.7. 8. & ove t accōrd
 liure de Entr. f. 477. tit. Quare impedit divisiōe Portion' Mich.
 22 H.6. Rot. 469. bē de Quare imp' fuit pſentare ad 2 ptes Ec-
 clæ. Vid. 6 E.6. 78. (c) Dyer, le Sñr Windsors Case. Et fuit ob-
 ject, q ne fuit alē bē in le Registre dast Quare imp' pſentare
 ad medietat' seu 3 partē Ecclesiæ, mes solent ad Ecclesiam.
 ¶ A t fuit rſide & resolve, q qſit le Registre dast bē pſentare t
 est assens garrāt a porter t dascun pt si le case voile t gar-
 rant, & le darreisi pt del opiniō del Prioc in (d) 33 H.6. f. 11. b.
 fuit deny, & q qſit sont 2 Patrons & 2 Incumbents dun m
 Eglise, issit q Lesglise in est dvide in moieties, q la Quare im-
 ped' ne girt a pſent al moiety, car reason & mults authoritēs
 in ley sont incont t, cōe appiert devant: mes sēe a moy. q in
 tiel case le Patrō de advocacione medietatis poit aſ Quare
 imp' pſentare ad Ecclesiam, car sur le marē, qſit a luy, t est un
 Eglise, & issit le pſ poit aſ (cōe moy sēe) bē in lū forſm ou
 laut: & ove t accōrd (e) Windsors Case in le 5 part demes Re-
 ports, f. 102. ou le Count fuit de advocatiō 3 pris, & unē le bē
 fuit ad Eccles. & nemy ad 3 partē. Et issit vous mieux inten-
 des le reasō de bēe liures, & p t attainēt al voſ sence & judg-
 mēt del ley. Et puis judgēt fuit done q le bē fuit boſ & le
 Def. rule a responder ouſter, & issit il fuit. Vide Trin. 14 Eliz.
 Rot.

(a) F.N.B. 33. a.
 (b) F.N.B. 30. e.

(c) Dyer 78. pl. 34.
 5 Co. 102. b. 4 Co.
 75. a. b.

(d) Dyer 299. pl.
 32. Co. Lit. 17. b.
 Moor 867. pl. 1199
 Devant 136. a.

(e) 5 Co. 102. a. b.
 Co. Entr. 489. pl. 6.
 2 Rol. 347. Moor
 558, 559. Cr. El.
 686, 687. 2 Rol.
 Rep. 131. Lit. Rep.
 304.

Rot. 1060. Paschæ 37 Eliz. Rot. 1226. S. Thomas (a) Stanhops (a) 5 Co. 102. b. Case, Paschæ 41 Eliz. Rot. 836. le Case del Esglise de (d) Darfield, ou tte l Bief de Quare impedit come cesty est in le principal case, s. quod permittat præsentare idoneam personam ad medietatem Ecclesiæ de Darfield fuit, sur demurrer & solemnne arguunt, adjudge maintainable.

C A S E S
SUR LES
Commissions
DE
SE W E R S.

Pasch. vii Jac. Reg.

Cas de Molin de Chester sur la Riviere
de Dee.

13 Co. 35. Mod.
Rep. 45. 4 Inst. 275

UN Causey ou millāk de pierre in la Ribet de Dee & City de Chester devāt le reigne le Roy E. 1. fuit fait & erect p le necessary maintenance de certain milles, ascūs del Roy, aūs des subjects, qur estoiet al fine del dit Causey, & ore tard un cētain decret fuit fait p cētain Cōmissioners de Sewers p un breach deist fait per 10 veirges in longitude in le dit Causey, q̄l Causey (come fuit admī p ambideux pties) fuit erect devant le reigne le Roy E. 1. & issint ad continue jelsq a cest jour sans alē exaltation ou inbanseint; & si p alē decret des Cōmissioners p force de alē stat, alē breach poet estē fait in cest Causey, fuit le q̄stion: q̄ fuit referre p les letters del seignōrs del p̄sby Councel

cel aux 2 Chief Just. & Chief Baron : & sur oyer del councel erudite a dits leſdits jours, & bone cōsiderat eue in le tēps del darrein vacatiō de tous les stat cōcēnāt Sewers, & sur conference eue ent eux-mesmes, fuit resōlue cōe ensuist. ¶ 1. Du est p̄vieu p̄ lestat de Magna Charta, (a) Qd' omnes Kidelli deponāt de cetero penitus p̄ Thamesiā, & Medeweyā, & p̄ totā Angliā, nisi p̄ costerā maris, fuit resōlue, q̄ cest stat extend solemēt al Ridelis, i overt weres, p̄ p̄isel de p̄issons : mes le p̄m̄ stat q̄ extend al p̄strating ou abatīng dāc̄ molins, millstanks, & cawleys, fuit lestat de (b) 25 E. 3. c. 4. q̄l act appoint tiels solemēt deſt p̄state ou abate q̄ur fuet leby ou erect in le reign le Roy E. 1. ou aps : mes p̄ lestat fait añ (c) 1 H. 4. c. 12. sur cōplaint in p̄laint de grand damages q̄ur ont eschy p̄ le outragious inhāūsing de mills, millstanks, & auts impedim̄ts faits & erect debāt. le reign le Roy E. 1. les dits antiēt mills & millstanks fuet appoint p̄ act dōqs fait dēe surbey, & tiels q̄ur fuet trove mult inhāse dēe cōrrect & amend, sabāt tous foits reasonable substāce de tiels mills, millstanks, weres, &c. issint in ancient tēps faits & leby : nul de q̄ur acts extēd a le case in q̄stīō, car cē cawley, &c. fuit erect debāt le reign le Roy E. 1. & ne un q̄s exalt ou inhāse puis le erectiō de t̄ : & lestat de (d) 12 E. 4. c. 7. cōfirme tous les dits acts, & p̄ eur le gēnalty del dit act de Magna Charta est restrain, come p̄ m̄ les acts appiert : Et p̄ lestat de (e) 23 H. 8. c. 5. nul des dits acts (q̄nt al point in q̄stīō) ē repeal ; car p̄imerm̄t, m̄lact appoint le manſi, form, tenor & effect del Cōmissiō de Sewers, p̄ q̄ power & authority ē doñ aux Cōmissioners a surbeyr Wallles, &c. sewers, cawleys, &c. molins, &c. & eur a cōrrect, repaier, amender, put down or reform, as cause shall require, according to their Wisdoms and Discretions ; And therein as well to ordain and do after the form, tenor and effect of all and singular the Statutes and Ordinances made before the first of March, añ 23 H. 8. as also to enquire by the Oaths of honest and lawful Men, &c. through whose default the said hurts and damages have happened, &c. p̄ q̄ appiert q̄ le (f) discretiō des Cōmissionis fuit limit, s. a p̄ced solōq̄ lestat & ordināces debāt faits, & donq̄s tous les clauses subsequēts, And also to reform, repair and amend the said walls, &c. p̄ force de cē pol (said) ad relac al p̄cedēt p̄vieu de act, And farther to reform, amend, prostrate and overthrow all such Mills, &c. and other Impediments and Annoyances (aforeſaid) as shall be found by Inquisition or by your survey and discretion to be excessive and hurtful ; q̄l pol aforeſaid, referē cē clause auxy al p̄cedēt p̄vieu, s. tiels impedim̄ts & annoyances cōe sont encont les stat & ordināces debāt fait :
Aury

(a) 13 Co. 35. Magna Charta cap. 23.
2 Inst. 38. Callis Lect. 255.

(b) 13 Co. 35.

(c) 13 Co. 36.

(d) 13 Co. 36.

(e) 13 Co. 36. Cr. Jac. 336. 2 Bulstr. 197. Apres 139. a. 140. a. Callis Lect. f. 1. 5 Co. 99. b.

(f) Co. Lit. 227. b. 5 Co. 100. a. Apres 140. a. 4 Inst. 41. Hard. 146. Cr. Jac. 336. 2 Bulstr. 197. 198. Hob. 158. Callis Lect. 112.

- Auxy est ouster p^{re}veu p^{re} m^{re} l^{re}act, That all and every Estatute, Act and Ordinance heretofore made, concerning the Premises or any of them, not being contrary to this present Act, nor heretofore repealed, shall from henceforth stand and be good and effectual for ever: mes les dits ads de (a) 25 E.3. & 1 H.4. ne sont contrary al a^u c^lause de cest ad, ne fuet repeal deb^{at};
- (a) 13 Co.36. De-
vant 138. 2.
- (b) 11 Co. 63. a. Et tous foits tiel (b) construction doit est^{re} fait q^u un pt del ad poit accord obe aus^{si} & tous a estoier ensemble: Et sils avoient entend daver repeal les dits former ads, ils ne voss^{ent} lont ad eux repeal p^{re} tiels general & (c) doubtful po^{ur} c^ocernant cawleys, millstanks & molins, q^uit eux c^ocernont le inheritance de plusors subje^{ts}. Et accordant a cest resolution nous (d) certefiomus le seignio^{rs} del Councel q^u les dits statutes de 25 E.3. & 1 H.4. remaine unco^{re} in force, & q^u lauthority done p^{re} le Comission del Sewers nertend al mills, millstanks, cawleys, &c. erect (e) devant le reign le Roy E. 1. si non q^u ils ont est^{re} inhanse & exalt ouster leur former altitude, & p^{re} c^l fait plus prejudicial; In quel case ils ne sont dest^{re} (f) p^{re}trate ou subvert, mes dest^{re} reform p^{re} abatement del ex-
cesse & enhancement solement.
- (c) 2 Rol.Rep.410
- (d) 13 Co. 36.
- (e) 1 Sid. 145.
- (f) 13 Co. 36.

Mich. xii Jac. Reg.

In Communi Banco.

Keighleys Case.

In mesme cestuy Terme, sur evidence a un Jury de Essex en le case dun Keighley. ¶ Fuit resolve p tota Curiam de Communi Banco, q si un q est tenuus per prescription a repaier un mure contra (a) fluxum maris & si gard le mure in bone reparation, & de tiel altitude & q sufficient come fuit accustomed, & p le lodeine & unusual cretain del etwe, ou salse ou dulce, les mures sont dieupt ou le etwe oderflow les mures, q in cest case les Comissioners de Sewers cobient taxer tous tiels psons qur teignent aucun terres ou teneiments, ou comon de pasture, ou profit de fish- ing, ou ad ou poet aver aucun pde, damage ou disadavantage p aucun manner de means in m les lieus solong le quantity de lour fres, &c. car nul default in cest case fait in cey q doit r repaier: & lestat de (b) 23 H.8.c.5. primerint authorise les Comissionis to inquire by the Oaths of the honest and lawful Men, &c. through whose default the said hurts or damages have happened, &c. And who hath or holdeth any Lands or Tenements, &c. or hath, or may have any hurt, loss or disad- vantage, &c. And all those Persons and every of them to tax, &c. q doet issint estre intend, q quant un p prescription ou auter.

(a) Dall. 64. pl. 16
Dall. in Kelw. 206.
pl. 10. Dall. in Ash.
pl. 10. Moor 62. pl.
173. 68. pl. 187. 73.
pl. 200. 2 Bullstr.
200. Co. Lit. 53. b.

(b) Devant 138. d.
13 Co. 36. 2 Bullstr.
197. Cr. Jac. 336.
Callis Lect. f. 1.

autrement doit réparer aucun mure, sewer, &c. q il doit t
 fair, mes sil ne soit able a ceo fair, & pur inevitable necessity
 ceo doit estre repaïr in prevention dun grand & publique
 male, ou si nul default soit in luy per reason de le extraordi-
 nary rage & violence del ewe, q les Commissioners de Sewers
 in tiels cases ont power per le dit act a charger tous qur
 ont al default, &c. solong le quantity de leur tres, &c. mes
 qst un est tenu p prescript ou autrement a repaïr un mure,
 &c. si al default soit en luy, & le danger nest inevitable, mes
 q il in poet bien repaïr t, les Commissioners poet p le voter
 intention del act charger luy solent a repaïr ceo ; & si per
 son default le danger debeigne inevitable, ou q il mesme nest
 pas able a repaïr t, per. que come ad estre dit tous sont
 charges, &c. chescun de eux poet ad action sur le case vers celi
 q est issint tenu a repaïr le mure, &c. & recoversa leur da-
 mages solong leur pbe. In (a) 18 E.3.23. Action sur le case
 fuit port vs B. & count q in cestuy B. fuit seissie de certain
 tre in la. per reason de q il & ses aint & tout les terre-tes
 de temps dont, &c. ont fait & repaït quant mistier sert tant
 des pches del wall de la mere in la. &c. & p default de re-
 pareller, &c. le ewe enter & ad surround les tres del PL : le
 Def. trahe le prescription, sur q ils fues al issue, & fuit trove
 p le PL, & q fuit default in le wall p non repareller, per q
 le PL recober les damages, & bf agard al discount a bi-
 strainer B. a repareller le wall la ou mistier fuit & default.
 Nota. L'acteur, cest Judgint in act sur le case & le reason de t
 est p bono publico, car (b) Salus populi est suprema lex, & p t est
 part del Judgint in cest action sur le case, q le Def. sert di-
 strain a repareller le mure. Et en le case al bar le ley est
 foundue sur grand reason, car coist q p la ley un soit tenu
 a t garder & repaïr, un (c) Impotentia excusat legem, Et t
 q vient p la d. Dieu & est issint inevitable que nul provi-
 dence ou industry per cestuy que est lie poet estre prevent, ne
 chargera luy : Et p t, si tenant p vie ou ans ne (d) repaïr
 un mure de muer, issint q p son default le terre est surround
 & debeigne unprofitable, t est wast ; mes si le tre soit sur-
 round p le extraordinary rage & violence del muer sans
 default en luy, ceo nest pas wast, nient plus que si un mese
 soit arle per lightning, ou subbert per le rage del vent
 ou tempest, sans default del lessor, ceo nest pas wast : Et
 plus fort grand tides sont occasion p fort vents : Et obe
 ceo,

(a) Stiles 192.

(b) Noy 30.

(c) 1 Co. 98.24 Co.
 11. a. 5 Co. 22. a.
 6 Co. 21. b. 68. a.
 Co. Lit. 29a. Hard.
 387.

(d) Co. Lit. 53. b.
 F.N.B. 559. N.

ceo, qnt al wast, accord l'opinion del Court in le Common Bank in an 6. Reg. Eliz, in le (a) Report de Justice Dallison.

Et le court ad consideration dun aut clause in le dit act de (b) 23 H. 8. c. 5. And to make and ordain Statutes, Ordinances, &c. after the Laws and Customs of Romney-Marsh in the County of Kent, or otherwise after your own wisdoms and discretions.

¶ Et fuit resolve clerement q les seberal Comissioners de Sewers p tout Engleterre ne sont lies a poursuivre les leys & customs de (c) Romney-Marsh; mes in case ou aucun particular lieu deins leur Commission avoit tiels leys & customs come Romney-Marsh ad, la ils poient poursuivre eux, car (d) consuetudo loci est observanda.

¶ Darreins fuit resolve q ceux pöls in m laet cessascavoit, according to your wisdoms and (d) discretions, sont destre entend & enterprete according to Law and Justice; car chescun Judge ou Comissioner doet av ducs sales, viz. salem sapientia, ne sit insipidus, & salé cöscientia, ne sit Diabolus: Auxy discretion (cöe est bien describe) est Scire p legé quid sit justü; & p t les Comissionis de Sewers doient poursuivre cibien leur Commissio cöe le

serent expels en le dit act de 23 H. 8. q ils pisteront a exccuter leur Commission en mesme le manner come est la prescribe: Et obe t accord le description de discretion in Rooks Case in le 5 part de mes Reports, f. 100. a. Et fuit bien observe que chescun statute, ordinance & provision, que est fait per force del Commission de Sewers, doit consist sur 4 causes, 1. Le material cause, Et t est le substance, 2. Le formal cause, & ceo est le manner obe convenient circumstance, 3. Le efficient cause, & t est leur authority solong leur commission, 4. Le final cause, & t est pro bono publico, & nunquam pro privato.

Et ou l'opinion de Walmesly Justice report in Rooks Case avantdit fuit, q si owner del terre fuit p prescription tenuis a repaier le bank del ribber, que uncore sur tiel commission agard les Comissioners ne doient charger luy solement obe tout, sur conference obe Walmesly & Fleming Chief Justice, Yelverton, Williams; & auters Justices, fuit accord p Walmesly mesme & tous les auters, que le dit resolution sur le diversity avantdit fuit bone ley: Et Walmesly explain son opinion en Rooks Case, q les Comissioners ne doient charger celsy que est tenuis per prescription solement, que il intend ou est nul default en luy, mes ou est default en luy (car ceo accord obe les parols del dit act de 23 H. 8.) & nul inevitable necessity

pur

(a) Dall. 64. pl. 16.
Dall. in Kelw. 106.
pl. 10. Dall. in Ash.
pl. 10. Moor 62. pl.
173. 68. pl. 187. 73.
pl. 200. Co. Lit.
53. b.

(b) Devant 138. a.
139. a. 13 Co. 36.
2 Bullstr. 197. Cr.
Jac. 336. Callis
Lect. f. 1. 5 Co. 99. b.
(c) 4 Inst. 276. 277.
Callis Lect. 202.

(d) 4 Co. 28. b.
6 Co. 67. a. 7 Co.
5. a.

(e) 2 Bullstr. 197;
198. Hob. 158. Callis
Lect. 112. Co.
Lit. 227. b. 5 Co.
100. a. 4 Inst. 41.
Devant fol. 138. a.
Hard. 146. Cr. Jac.
336.

5 Co. 100. a. Callis
Lect. 144.

par insufficiency ou autre chose : mes si il n'y a point de fait, la si
mesme terra solesse charge p forces del dit commission : & si
dit q son reason rendue en Rooks Case imply tant, p. car au-
terist port est q tout le pais seet surround, si reason pur-
port son intention q rous qur avoient terres en danger ne
seront charge, mes en case de insufficiency de cessuy q est
ile, ou par autre inevitable necessity.

Mich.

Mich. vii Jac. Reg.

Cafe del Isle de Ely.

UN Cafe fuit referre per les seigniors del Councel al Coke Chief Justice del Bank, Daniel & Foster Justices del Common Bank, concernant un Decree fait p les Commissioners de Sewers pur fealant dun nobel River deins le Isle de Ely. Et in effect le Cafe fuit tiel : Les Commissioners de Sewers ount decree que un (a) nobel River terra cut out del beiel River de Ouse, & per le main soil deins meisme le Isle per sept miles jefques al auter part de meisme le River, & pur le fealans de ceo ils ount feberalment taxe ciblen Fen, Draiton, Samsey, Over Wilbelingham, Rampton, Cottenham, & neuf auters villes deins le Countey de Cambridge hors del dit Isle, come les Inhabitants del dit Isle, & le Tax fuit general, cest assavoir, tant de un ville, & tant de un auter, & sic de singulis. Et in cest case deux questions fueront move : 1. Si les Commissioners de Sewers posent per force de leur commission faire tiel nobel River, ou nemy, 2. Si tiel general taxation sur le ville fuit loyal ou nemy. Quant al pymer, est a veier quel poet estre fait per le Common Ley devant aucun estatute ent fait. Et est assavoir que per le Common Ley devant le statute de 6 H. 6. c. 5. le Roy doit de droit saver & defender son roialm cibien vers le mere come vers les enemies, que ils ne serent surround ou degast, & aury de provide que les subjects eient leur passage per le roialm per ponts & chemyns in safeguard : Et pur ceo, si les walles del mter sont enstreint

Sciles 192.

F. N. B. 113. a.

ou les sewers ou gutters ne sont escoures q le ewe dulces ne
 soient aber leur direct course, le Roy dever fait un Commission
 denquis & de Oyer & Terminer ceuz defaults; quel Commission
 appiert in le Register inter les Commissions de Oyer & Termi-
 ner, in q est dit, Nos eo quod ratione dignitatis nostre Regie,
 ad providendum salvationi Regni nostri circumquaque sumus
 astricti, &c. Et a ceo accord lestatute de 6 H. 6. c. 5. & lestatute
 de 23 H. 8. c. 5. & qnt a ceo Vide un notable President Pasch.
 44 E. 3. Midd. 2. coram Rege, Præceptū est vicecom quod di-
 stringat A. B. & alios quod ipsi defectus walliarū erg terras suas
 reparant, & si ipsi sufficientes non fuerunt, quod distrī omnes
 tenentes terrarum, &c. qui defensionem, comūm, salvamē, vel
 damnum ratione reparationis, seu non reparationis walliarū præ-
 dictarū habent, seu aliquo modo habere poterint, ita quod qui-
 libet tenentiū prædictorū, juxta quantitatem tenuræ suæ ibidē,
 contributionem præfatis A. B. & aliis ad wallias illas faciendas
 & reparandas faciant indilatē: quel recoyd fust devant ascun
 act de Parlement que limit ascun form del Commission. Le
 2 chose observable in le dit Commission al Common Ley est cest
 clause, ad hujus wallias, fossatas, gutteras, fuerras, pontes, cal-
 cets, & gurgites in locis necessariis reparand & quotiescunque
 & ubi necesse fuerit de novo facienda, per que appiert, que
 p le Commission in le Register al Common Ley, que les ancient
 mures, gutters, & sewers poet & repair ou nobelment fait,
 mes nul nobels mures, gutters, ou sewers, per force del dit
 Commission poet & fait. Donque est a veier in queux cases les
 statutes dunt fait provision in ceux cases: & est assavoir, que
 lestatute de 6 H. 6. c. 5. enlarge le Commission que fust al
 Common Ley, car ou ceux parols (de novo facienda) refer
 solement al ancient mures, gutters, sewers, &c. le dit act ad
 ceux parols, & eadem & alia quotiescunq; & ubi necesse fuerit
 de novo facienda, queux parols (& alia) esteant adde al forsh
 Commission, donout aux Commissioners power a faire nobels
 mures, gutters, sewers, &c. mes cest act ne endure forsq pur
 10 ans, & per 18 H. 6. c. 10. autiel Commission fust establie
 pur 10 ans, & per 23 H. 6. c. . pur 25 ans, & p 12 E. 4. c. 6.
 pur 15 ans, & p 4 H. 7. pur 25 ans, & per 6 H. 8. c. 10. pur
 10 ans, & jolque le prochain Parlement, & puis lestatute de
 23 H. 8. c. 5. fust fait; que recite nul des former acts cō les
 gutters sont, mes enca que sert enaptes Commission de sew-
 ers according to the manner, tenor, form and effect hereaf-
 ter ensuing, & reherse le form del Commission de verbo in
 ver-

verbum: quel commission omit les dits pois (& alia) & insue le commission in cest point q̄ fait al common ley, les pois del Act de 23 H. 8. esteat, And also to reform, repair and amend the said Walls, Ditches, Banks, Gutters, Sewers, &c. and the same (omitting these words, and other) as often and where need shall be, to make new, & le former clause concernant execution des former statutes & ordnances est restrain ove ceur parols, touching the Premises, que referront solement a repaier l'ancien mures ou sewers, ou de faire eux novel; & aury un subsequent clause, That all and every Statute, &c. heretofore made concerning the Premises (que restrain cest clause ut supra) not being contrary to this present Act, nor heretofore repealed, shall stand, be good and effectual for ever: issint que ¶ Fuit resolve per les dits Justices, que pur force del dit commission found sur l'act de 23 H. 8. les commissioners ne poient fait le dit novel river Moor 825.
Styles 192. hors del main terre per quatre causes: 1. Que cest Act prescribe le maner & form del commission in expresse parols, que extendont solement al reparation & novel feaillure des ancien mures, gutters, &c. 2. Que ceur parols, & alia, que fueront include in le statute de 6 H. 6. & tous les dits acts, sont omis hors de cest commission. 3. Tous les former acts fueront p̄ un temps, mes cest act que establie cest commission est fait perpetuel per le statute de 3 E. 6. & 8. & pur ceo sert dure a enlarger ceo ouster les parols, & a donner power aux commissioners a trier novel inventions al charge de pays, queur peradventure ne unques prendront bone effect, mes vira tria est curissima: 4. Appert p̄ le Register, in le Briel de Ad quod damnum, f. 252. & F. N. B. 225. E. q̄ si ancien fosse ou trenche veignant del muer a un ville, per q̄ bateux ou vessels use de passer al dit ville, ore si ceo soit esloppe p̄ le outrage del mere, & home hostile suer al Roy daver licence a faire novel trenche & de esloppe l'ancien trench, il cobient p̄mies suer Ad quod damnum a scaver a quel damage ceo sert al Roy ou as auters; p̄ q̄ & p̄ le Briel in le Register de antiqua trenchea obstruenda & nova facienda seu habenda, appert q̄ nul tiel novel trenche ou river que curgera al muer poert estre fait sans Briel de Ad quod damnum, & sur ceo de obtien licence le Roy a ceo fait, car si aucun commissioners poient ceo fait ex officio, grand inconvenience sur t̄ pur privat lucre post ensuer, sibn p̄ public damage ou stopping des badens (q̄ sont les ports del Realm)

Co. Lit. 230. a.
377. b.

o autres common rivers, come particular nuisance e pre-
judice al public homes, per surquonding de leur terres e
inheritance. Et par ces tiels novel rivers ne soient estre
fait sans licence le Roy soumdue sur Byles de Ad quod dam-
num. Vide Byles de Ad quod damnum in tiel case, quia op-
timum. Mes fait resolve, q si come novel inventions, come
dun artificial Polin de eseter le ewe, ou dun grand river
hors del royaume terre, e autres semblables, ne sont garrant
per le dit commission sur le dit Act de 23 H. 8. quia nihil se-
mel inventum est & perfectum: Mais q si un veiel sewer est
novelise deit fait ou elente, ascu petit alterat, in respect del
natural change del current ou auterment, p le public bien de
tiel lieu (e il est in autres cases semblables) peut estre fait:
Mais q si un ancien mur p le extreme rage del ewe est di-
rupt, e pesterber les tres veins in le level del inundaat un
aut mur, in case de inevitable necessity p le bien public de
ceci ne peut estre fait a deservir le peuple e leur tres veins in
le level, car ceci manit de defence p walling nest pas novel
invention, mes ancien voy e mean bien appoe per experience,
e sur le chartre e non novel feassans del ancien wall in
lien p inevitable necessity plus que q tout: Mes si per le
timele separation del veiel mur le extreme peril peut estre
abold, nul aut doit estre fait, car si assues mederi possu nova
non sunt ventanda, mes q si novel inventions sont propose,
come est abondit, q ils sont oportune profitable, nul oisi del
tre la veit denier a soit contribut p son bone advantage, e
donques ceo soit fait p leur voluntary consent e charge,
e ne p force p force del dit commission de Sewers sur le
dit Act de 23 H. 8. mes ascuns fois q si le public bien est
prejudice, un private benefit est intended: e si aucun tiel
novel invention soit in verity (quod raro aut nunquam fit)
hant p le bien public, e un nul consent peut estre obtene al
consent de e, donques la est nul remedy mes a complaisi in
Parliament la a paiser telles, eoe Sir Jo. Popham Jades Chief
Justice Dengliser 16. q exhibet bill in Parliament, au 3 Jac. p
tesant novel est in le dit Isle, le bill est sur son grand charge
ad esence, sachant q sans Act de Parliament nul peut estre
arde p force del commission de Sewers a contribuer a tiel
novel attempt, mes le bill fut tout ousterit reject.

Cro. Arg. 24. &c.

Et fait aury resolve, q nul peut estre rare vers le repa-
rai, &c. mes ceux q sont prejudies, damage, ou disadvan-
tage p les dits nuisances ou defaults, e ceux soient aver-
bene.

benefit & profit per le reformation ou remobing de eux: Aury,
 q le (a) taration, assesseint, & charge doit ad ceur qualittes; (a) Callis Lett.
 1. Doit estre solonque le quantittie de lour fres, tenements & rents, & per le number des acres & perches; 2. Solonq rate
 de chescun persons portion, tenure ou profit, ou del quantittie
 del common de pasture, ou del fithing ou autre commoditie:
 & pur ceo fuit clereint resolve per eux, que le dit taration (b) (b) Moor 825.
 generalment dun feberal sum in gros, sur un ville, nest
 garrantie p lour commission, mes doit aver estt particulier,
 solonq les expes parols sur chescun otton ou possessor de fres,
 tenements, rents, &c. obserbant les dits qualittes avantdits.
 Et est destre obserbe que sont trois maners de statutes queur
 concernont Sewers; les pmyers consistont in defendedo &
 reparando Wallias, Seweras, &c. Les 2. in destruendo & amo-
 vendo nocumenta, &c. Les 3. queur concernat ambdeux les
 points, tam in destruendo quā in defendendo: Del pmyer soit,
 sont Magna Charta c. 15. & 16. 6 H. 6. c. 5. 18 H. 6. c. 10.
 23 H. 6. c. 9. 12 E. 4. c. 6. 4 H. 7. c. 1. 6 H. 8. c. 10. Del second
 soit sont Magna Charta, c. 23. 25 E. 3. c. 4. 45 E. 3. c. 4.
 1 H. 4. c. 12. 9 H. 6. c. 9. (c) 22 E. 4. c. 7. Le tierce soit (c) Devant 138.
 des statutes, queur concernont ambdeux les soys, sont
 23 H. 8. c. 5. 25 H. 8. c. 10. 3 E. 6. c. 8. & 13 El. c. 2.

Mich.

In Curia Wardorum.

Mich. x Jac. Regis.

Scropes Case.

2 Rol. 262, 263.
3 Keb. 537, 557.
572. Lit Rep. 111.
Winch. 83.

L E Case inter Thomas Badges & Anne la femme pr.
& Eliz. Scrope & autres Def. fut tel: Nicholas
Scrope seigneur in fee des Manors de Parleton &
Mount, & étant illue le dit Anne un des pr. per
William de la femme, p. Indenture dated 26 June 23 Eliz. pur le
serment de William de la femme & Anne leur fille Covenant
ove divers a estoier seigneur des dits Manors al corps del dit Ni-
cholas, William, & Anne pur leur vies, & puis al dit Anne
& a les heirs de son Corps ove autres reyn ouster, ove un pro-
viso que si le dit Nichol. durant son vie, & apres les dets pay-
mentis in un Schedule annex al Indenture serf dispose ou
determiner a dissueller, changer, alter, enlarger, diminuer, ou
a fait void the Uses or Estates or any of them of the Premises
or any part thereof, that then it shall be lawful to and for the
said Nicholas at all times at his pleasure, by his Writing indent-
ed under his Hand and Seal, subscribed in the presence of three
Witnesses, to determine, dissueller, &c. and also by the same
Writing at his will and pleasure, or any other Writing whar-
soever, signed and subscribed as is abovesaid, to limit, declare
and appoint the Uses of the same to the persons abovesaid, or
to any other persons, &c. William moyn, le dit Nichol. es-
pouse Eliz. Boyce, & per Indenture ult. Novéb. 33 El. sub-
scribe in le presence de 3 testimoignes in consideration d'un joi-
ture deit fait al dit Eliz. covenant ove Wykes & Warnesford
a estoier

a effoier celle del dit Manoz de Parleison al use del dit Rich.
 & Eliz. par leur vies, & puis al oeps des droit beires del dit
 Rich. et. & auters conveiances del dit simple fuet fait apa.
 Et fuit resolve par les 2 Chief Justices & le Chief Baron
 q comment q in cest case n'est pas aucun (a) expels significat de
 son purpose ou determinat a determiner, dissuulser, &c. une
 in tant q le dit Indenture de Anno 33 El. il convenat a effoi-
 er celle al use deluy mesme & del dit Eliz. adouqua la feme
 & puis a son droit beires, ceo inure a 2 intents: 1. A declare
 son purpose & determinat a determiner, dissuulser, &c. & per
 ipso facto les forin uses cesse: & 2. Le covenant in mesme len-
 denture inure a rasser novel use al dita Nicholas & Eliz.
 la feme & al beires del dit Nicholas: & issint fuit resolve in
 un case in le Bank le Roy inter (b) Frampton & Frampton
 Trin. 2. Jac. Regis, quia (c) non refert an quis inceptione su-
 am declarat verbis, an rebus ipsis, vel factis, & quant il limit
 novel & auters uses, il per ceo signifie son purpose a determi-
 ner & alter les uses paravant. Des fuit resolve que tous
 incident circumstances prescribe per le proviso, quant al sub-
 scription, testimoignes, & auters (d) circumstances, voient
 estre observe in le 2 Indenture.

(a) Raymond 307.
 Hob. 313. Cr. Car.
 472. 2 Rol. 262.
 263. 1 Jones 393.
 6 Co. 33. b. Co.
 Lit. 237. a. 1 Sid.
 343. Winch. 83.

(b) 2 Rol. 263.

(c) 3 Keb. 537.
 1 Rol. 300, 303.
 2 Rol. 263. 10 Co.
 52. b.

(d) Hob. 312.
 Bridg. 21. Lit.
 Rep. 25.

Casuum istius libri series.

		Fol.
1. Le Case de Suttons Hospital,	Mich. 10 Jacobi Regis	1
2. Mary Portingtons Case,	Trin. 11 Jacobi	35
3. Jennings Case,	Trin. 38 Eliz.	43
4. Lampets Case,	Mich. 10 Jacobi	46
5. Le Case del Chancellor, Master & Schollers de Oxford,	Trin. 11 Jacobi	53
6. Levesque de Sarums Case,	Trin. 11 Jacobi	58
7. Whistlers Case,	Hill. 10 Jacobi	63
8. Le Case del Gardens de S. Sa- vions en Southwark,	Trin. 11 Jacobi	66
9. Le Case del Marthalsey,	Mich. 10 Jacobi	68
10. Leonard Loveis Case,	Pasch. 11 Jacobi	78
11. Doctor Leyfields Case,	Hill. 8 Jacobi	88
12. Edward Seymors Case,	Mich. 10 Jacobi	95
13. Beawfages Case,	Mich. 10 Jacobi	99
14. Alfridus Denbawds Case,	Mich. 10 Jacobi	102
15. Ar-		

15. Henry Lofelds Case,	Mich. 10 Jacobi	106
16. Arthur Legats Case,	Mich. 10 Jacobi	109
17. Robert Pilfolds Case,	Mich. 10 Jacobi	115
18. Cheyneys Case,	Mich. 10 Jacobi	118
19. Le Case del Mayor & Burgesses de Linn	Mich. 10 Jacobi	120
20. William Cluns Case,	Mich. 11 Jacobi	127
21. James Osborns Case,	Mich. 11 Jacobi	130
22. Read & Redmans Case,	Pasch. 10 Jacobi	134
23. Rich. Smiths Case,	Trim. 10 Jacobi	136
Cases sur les Com- missions de Sewers.	24. Case de Chester Molin.	Pasch. 7 Jacobi
	25. Keighleys Case,	Mich. 7 Jacobi
	26. Case de Isle de Elie,	Mich. 7 Jacobi
In Curia War- dorum.	27. Scroopes Case,	Mich. 10 Jacobi

Nomina tam Justiciariorum utriusque Banci & Baronum Scaccarii, quam Servientium ad Legem tempore Editionis decimi hujus Comentarii.

Del Bank le Roy.

Edwardus Coke, Miles. 25 Johannes Doderidge, Miles.
Johannes Crooke, Miles. 5 Robertus Houghton, Miles.

Del Common Bank.

Henricus Hobart, Miles. 25 Humfridus Winch, Miles.
Petrus Warberton, Miles. 5 Augustinus Nichols, Miles.

Del Eschequer.

Laurentius Tanfield, Miles. 25 Jacobus Altham, Miles.
Georgius Snigge, Miles. 5 Edwardus Bromeley, Miles.

Servientes ad Legem.

Henricus Mountague, Miles. 25 Robertus Baker.
Johannes Sherley. 5 Richardus Hutton.
Thomas Harris.

F I N I S.

